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Manual of Instructions for the Survey of Canada Lands

Third Edition

Volume 1
Legislation and Administrative Agreements



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PREFACE

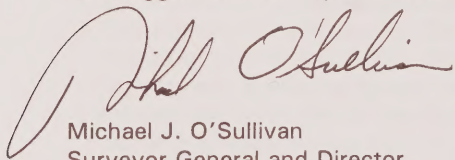
This third edition of the Manual of Instructions for the Survey of Canada Lands has been produced to provide for amendments to the second edition and to include new general instructions for additional products and services. This manual represents the current general instructions for all surveys on Canada Lands requiring the approval or confirmation of the Surveyor General. Additional specific survey instructions may be required for certain types of surveys.

The Manual is divided into five Parts contained in two separate Volumes. Volume I contains Parts A and B. Part A consists of excerpts and summaries of federal and territorial legislation which may be useful to surveyors performing legal surveys on Canada Lands. Part B contains excerpts of interdepartmental and intergovernmental agreements affecting the management of land and surveys.

Volume II contains Parts C, D and E. Part C outlines general administrative requirements and procedures for conducting legal surveys on Canada Lands. Part D contains the general instructions for surveys and survey-related products and services. These instructions are issued under the authority of the *Canada Lands Surveys Act* and various other pieces of legislation, such as the *Yukon Quartz Mining Act* and the *Canada Mining Regulations*. Part E consists of the appendices.

The goal of this manual is to ensure that surveys and their attendant documentation result in a lawful, clear and unambiguous definition and demarcation of land parcels and their boundaries. Adherence to these general instructions or to any specific survey instruction may be impractical or impossible because of local conditions or other statutory requirements. The onus is on the land surveyor to consult with Legal Surveys Division in such cases.

Amendments to this manual will be made on an ongoing basis as the need arises. Comments and suggestions for improvement are welcome.



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MANUAL OF INSTRUCTIONS FOR THE SURVEY OF CANADA LANDS

VOLUME I

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The excerpts and references contained in Part A of this Manual have been updated to the appropriate dates indicated in this Table.

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| A1 ■ General Statutes of Canada | 1 August, 1996 |
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SCHEDULE OF AMENDMENTS

Amendments to this Manual will be made as the need arises. A Schedule of Amendments listing all the changes to the original publication will be included with each amendment.

Subscribers to the Manual will be notified of amendments and associated costs. It is the responsibility of each person receiving this subscription to notify the Surveyor General of any change of address. Notices of change of address or comments and suggestions for improvement should be sent to :

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GENERAL STATUTES OF CANADA

Introduction

Contents

This Chapter contains excerpts from the *Revised Statutes of Canada, 1985* (including its supplements) and excerpts from the annual editions of the *Statutes of Canada*.

The *Revised Statutes of Canada, 1985* is a consolidation and revision of the public general Statutes of Canada which were in force on 12 December, 1984. The *Revised Statutes of Canada, 1985* also contain Acts of general application which were enacted between 12 December, 1984 and 12 December, 1988.

The annual editions of the *Statutes of Canada* contain Acts of Parliament which have received Royal Assent during a particular year. This Chapter contains only excerpts of Acts considered to be of general application and which came into force after 12 December, 1988.

Caution

The excerpts in this Part of the Manual have been prepared for convenience of reference only and have no official sanction. Reference to excerpts is at the user's discretion. The Legal Surveys Division, Department of Natural Resources, assumes no responsibility for any reproduction of the excerpts.

For all purposes of interpreting and applying the law, users should consult the Acts as passed by Parliament which are published in:

- (a) the "Assented to" Acts Service, Part III of the *Canada Gazette*;
- (b) the annual editions of the *Statutes of Canada*; or
- (c) the *Revised Statutes of Canada, 1985*.

The above mentioned publications are available in most public libraries. They may also be purchased from the Canada Communication Group, Publishing, Public Works and Government Services Canada or from bookstores that sell Canadian Government publications.

Abbreviations

The following abbreviations are used in this Part of the Manual:

| <u>Abbreviation</u> | <u>Definition</u> |
|---------------------|---|
| c. | chapter |
| CIF | came in force |
| ex. | except |
| NIF | not in force |
| R.S.C. 1985 | <i>Revised Statutes of Canada, 1985</i> |
| RA | Royal Assent |
| s. | section |
| S.C. | <i>Statutes of Canada</i> |
| Sch. | Schedule |
| SI | Statutory Instrument |
| SOR | Statutory Order and Regulation |
| ss. | sections |
| Supp. | Supplement |
| U.K. | United Kingdom |

Organization of Acts

The Acts are set out in alphabetical order. Each Act is organized into three parts:

- (a) the heading;
- (b) the excerpts; and
- (c) the ending annotations.

Heading

The heading contains the short and long title of the Act and the source of the excerpts. For example, the heading for the *Canada Lands Surveys Act* appears as follows:

Canada Lands Surveys Act

An Act respecting the surveys of public lands of Canada

Excerpts from
Chapter L-6, R.S.C. 1985
As amended

In the example above, the annotation following the short and long title means that the excerpts of the *Canada Lands Surveys Act* come from chapter L-6 of the *Revised Statutes Of Canada, 1985* as may have been amended over time.

Excerpts

The main body contains excerpts of the Act. Each section or part thereof is numbered to correspond to the Act. A 3 centimetre line separator indicates the end of each section. A reference appears immediately below the line separator if the section has been amended since its original enactment. For example, the excerpts of sections 36 and 37 of the *Indian Act* appear as follows:

Special reserves

Reserves not vested in the Crown

36. Where lands have been set apart for the use and benefit of a band and legal title thereto is not vested in Her Majesty, this Act applies as though the lands were a reserve within the meaning of this Act.

Surrenders and designations

Sales

37. (1) Lands in a reserve shall not be sold nor title to them conveyed until they have been absolutely surrendered to Her Majesty pursuant to subsection 38(1) by the band for whose use and benefit in common the reserve was set apart.

Other transactions

(2) Except where this Act otherwise provides, lands in a reserve shall not be leased nor an interest in them granted until they have been surrendered to Her Majesty pursuant to subsection 38(2) by the band for whose use and benefit in common the reserve was set apart.

R.S.C. 1985, c. 17 (4th Supp.), s. 2.

In the above excerpts, section 36 has not been amended, whereas section 37 has been

amended by the *Revised Statutes of Canada, 1985*, chapter 17 (Fourth Supplement), section 2. The excerpts reflect all applicable amendments.

Ending Annotations

Annotations are added at the end of the excerpts for reference purposes. These annotations specify the source of the original Act; specify the coming into force of the Act if the Act originates from the annual *Statutes of Canada*; list the enactments that amended the Act; and specify the coming into force date of the amendments.

For example, the following references appear at the end of the *International Boundary Commission Act*:

The above excerpts of the *International Boundary Commission Act* are from chapter I-16 of the *Revised Statutes of Canada, 1985* as amended by:

- S.C. 1993, c. 34, s. 86; RA 23.06.93.

In the above example, the Act as it appeared in chapter I-16 of the *Revised Statutes of Canada, 1985* has been amended by the *Statutes of Canada 1993*, chapter 34, section 86. Since no coming into force (CIF) date is indicated, the amendment came into force 23 June, 1993 on Royal Assent.

Explanatory Notes

Where it was deemed necessary for clarity, explanatory notes are added within the excerpts. These notes appear in shaded boxes similar to the box below.

NOTE

These notes form no part of the enactment and are inserted for convenience of reference only.

In force dates

Revised Statutes of Canada, 1985

The *Revised Statutes of Canada, 1985* and its First and Second Supplement came into force on 12 December, 1988. The Third Supplement came into force on 1 May, 1989, and the Fourth and last Supplement came into force on 1 November, 1989.

Acts originating from the *Revised Statutes of Canada, 1985* came into force in accordance with the above dates. For example, the excerpts of the *Canada Lands Surveys Act* are from Chapter L-6 of the *Revised Statutes of Canada, 1985*. Except for those parts of the Act which have been amended, the excerpts came into force on 12 December, 1988.

Other Statutes

A statute comes into force on Royal Assent unless there is a provision specifying that the statute, or parts thereof, comes into force at a later date. In this Manual, references to an enactment that was not included in the *Revised Statutes of Canada, 1985* contain the date of Royal Assent and, if applicable, coming into force dates.

For example, a reference such as

- (a) ■ S.C. 1991, c. 10, s. 19; RA 01.02.91.

means that chapter 10 of the *Statutes of Canada 1991* received Royal Assent on 1 February, 1991. Since no CIF date appears in the notation, section 19 of that Act came into force on Assent; or

- (b) ■ S.C. 1990, c. 7; RA 29.03.90; CIF 01.06.90
ex. ss. 13, 20, 25, 27 (SI/90-66);
ss. 13, 20 CIF 01.01.90 (SI/90-174);
s.25 CIF 12.12.88 (s. 52);
s.27 CIF 29.03.90.

means that chapter 7 of the *Statutes of Canada 1990* received Royal Assent on 29 March, 1990. By virtue of Statutory Instrument 90-66, it came into force on 1 June 1990 except for sections 13, 20, 25 and 27. Sections 13 and 20 came into force on 1 January 1990 by virtue of Statutory Instrument 90-174. Section 25 came into force on 12 December 1988 by virtue of section 52 and section 27 came into force on assent.

How current are the excerpts?

This Chapter contains only enactments which were in force on 12 December 1984 or which came into force after that date. The excerpts have been updated to the applicable date indicated in the Table of Consolidation preceding Part A of this Manual.

Aeronautics Act

An Act to authorize the control of aeronautics

Excerpts from
Chapter A-2, R.S.C. 1985
 As amended

SHORT TITLE

Defence Staff appointed under the *National Defence Act*;

Short title

1. This Act may be cited as the *Aeronautics Act*.

"Minister" for certain purposes

(2) Notwithstanding the definition "Minister" in subsection (1), "Minister", in relation to any matter referred to in paragraph 4.2(n), 4.9(p), (q) or (r), section 6.3 or paragraph 8.7(1)(b), means the Minister of National Defence.

HER MAJESTY

Binding on Her Majesty

2. This Act is binding on Her Majesty in right of Canada or a province.

R.S.C. 1985, c. 33 (1st Supp.), s. 1;
 S.C. 1992, c. 4, s. 1
 S.C. 1996, c. 20, s. 99.

INTERPRETATION

Definitions

3. (1) In this Act,

"aerodrome"

"aerodrome" means any area of land, water (including the frozen surface thereof) or other supporting surface used, designed, prepared, equipped or set apart for use either in whole or in part for the arrival, departure, movement or servicing of aircraft and includes any buildings, installations and equipment situated thereon or associated therewith;

"airport"

"airport" means an aerodrome in respect of which a Canadian aviation document is in force;

"Canada"

"Canada" includes the territorial sea of Canada;

"Minister"

"Minister" means

(a) subject to paragraph (b), the Minister of Transport or such other Minister as is designated by the Governor in Council as the Minister for the purposes of this Act, and

(b) with respect to any matter relating to defence, including any matter relating to military personnel or a military aircraft, military aerodrome or military facility of Canada or a foreign state, the Minister of National Defence or, under the direction of the Minister of National Defence, the Chief of the

PART I

AERONAUTICS

Airport Zoning

Definitions

5.4 (1) In this section and in sections 5.5 to 5.81,

"airport site"

"airport site" means any land, not being a part of an existing airport,

(a) the title to which is vested in or that otherwise belongs to Her Majesty in right of Canada, or

(b) in respect of which a notice of intention to expropriate under section 5 of the *Expropriation Act* has been registered

and that is declared by order of the Governor in Council to be required for use as an airport;

"federal airport"

"federal airport" includes a military aerodrome;

"lands"

"lands" include water (and the frozen surface thereof) and any other supporting surface;

"object"

"object" includes an object of natural growth;

"owner"

"owner", in respect of land or a building, structure or object, includes any person other than a lessee, who

has a right, title or interest in the land, building, structure or object that is a recognized right, title or interest therein under the law of the province in which it is situated;

"zoning regulation"

"zoning regulation" means any regulation made pursuant to subsection (2).

Zoning regulation

(2) The Governor in Council may make regulations for the purposes of

- (a) preventing lands adjacent to or in the vicinity of a federal airport or an airport site from being used or developed in a manner that is, in the opinion of the Minister, incompatible with the operation of an airport;
- (b) preventing lands adjacent to or in the vicinity of an airport or airport site from being used or developed in a manner that is, in the opinion of the Minister, incompatible with the safe operation of an airport or aircraft; and
- (c) preventing lands adjacent to or in the vicinity of facilities used to provide services relating to aeronautics from being used or developed in a manner that would, in the opinion of the Minister, cause interference with signals or communications to and from aircraft or to and from those facilities.

Conditions precedent

(3) The Governor in Council shall not make a zoning regulation under paragraph (2)(a) unless

- (a) the Minister, after making a reasonable attempt to do so, has been unable to reach an agreement with the government of the province in which the lands to which the zoning regulation applies are situated providing for the use or development of the lands in a manner that is compatible with the operation of an airport; or
- (b) in the opinion of the Minister, it is necessary to immediately prevent the use or development of the lands to which the zoning regulation applies in a manner that is incompatible with the operation of an airport.

Non-conforming uses, etc.

(4) No zoning regulation shall apply to or in respect of a use of land, buildings, structures or objects or a building, structure or object that, on the day on which the zoning regulation comes into force, exists as a use, building, structure or object that does not conform to the zoning regulation.

Deeming existence of certain things

(5) For the purposes of subsection (4), where on the day on which a zoning regulation comes into force, all approvals for construction required by law have

been obtained permitting a building, structure or object that, if constructed, would not conform to the zoning regulation, the building, structure or object shall be deemed to exist on the day on which the zoning regulation comes into force.

added, R.S.C. 1985, c. 33 (1st Supp.), s. 1;
S.C. 1992, c. 4, s. 10.

Publication of notice of proposed regulation

5.5 (1) The Minister shall cause a notice of every zoning regulation that is proposed to be made to be published in two successive issues of at least one newspaper, if any, serving the area to which the proposed zoning regulation relates and in two successive issues of the *Canada Gazette*, and a reasonable opportunity shall be afforded to interested persons to make representations to the Minister with respect thereto.

Exception

(2) No notice of a proposed zoning regulation is required to be published under subsection (1) if

- (a) it has previously been published pursuant to this section, whether or not the proposed zoning regulation is altered as a result of representations referred to in subsection (1); or
- (b) the proposed zoning regulation would, in the opinion of the Minister, make no material substantive change in an existing zoning regulation.

added, R.S.C. 1985, c. 33 (1st Supp.), s. 1.

Publication of zoning regulations

5.6 (1) In addition to the publication required by the *Statutory Instruments Act*, a copy of every zoning regulation shall, forthwith after it is made, be published in two successive issues of at least one newspaper, if any, serving the area to which the zoning regulation relates.

Deposit of regulation, plan and description

(2) A zoning regulation shall come into force in respect of the lands to which it applies when a copy thereof, together with a plan and description of the lands, signed by the Minister and by a land surveyor duly licensed in and for the province in which the lands are situated, has been deposited on record in the office of the registrar or master of deeds or land titles or other officer with whom the title to land is registered or recorded in each county, district or registration division in which any part of the lands are situated.

Amendments

(3) Where a zoning regulation deposited pursuant to subsection (2) is amended, the amending regulation shall come into force when a copy thereof, signed in the manner provided in that subsection, is deposited in the same office or offices where the zoning regulation thereby amended was deposited, but a further plan and description need not be so deposited unless lands additional to those affected by the zoning regulation thereby amended are affected by the amending regulation.

Duty of the registrar

(4) For the purposes of subsections (2) and (3), the registrar or master of deeds or land titles or other officer with whom the title to land is registered or

recorded shall receive and permanently retain in his office such zoning regulations and plans and descriptions as are deposited pursuant to those subsections and shall endorse thereon the day, hour and minute of their deposit.

Abandonment

(5) Where a notice of intention to expropriate for any of the purposes described in subsection 5.4 (2) has been registered in accordance with the *Expropriation Act* and that intention is abandoned or is deemed to have been abandoned under that Act, any zoning regulation with respect to the lands affected by the abandonment shall thereupon cease to have effect.

added, R.S.C. 1985, c. 33 (1st Supp.), s. 1.

The above excerpts of the *Aeronautics Act* are from chapter A-2 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 33 (1st Supp.), s. 1; RA 28.06.85.
- R.S.C. 1985, c. 28 (3rd Supp.), ss. 276, 359; RA 28.08.87; CIF 01.01.88 (SI/88-26).
- S.C. 1989, c. 3, ss. 39, 40; RA 29.06.89; CIF 29.03.90 (SI/90-63).
- S.C. 1989, c. 17, s. 8; RA 04.10.89.
- S.C. 1992, c. 1, ss. 3 to 5 and s. 144[Sch. VII, item 4]; RA 28.02.92.
- S.C. 1992, c. 4, RA 19.03.92.
- S.C. 1996, c. 10, ss. 204, 205; RA 29.05.96; CIF 01.07.96 (SI/96-53).
- S.C. 1996, c. 20, s. 99 to 103; RA 20.06.96.

Canada Evidence Act

An Act respecting witnesses and evidence

Excerpts from
Chapter C-5, R.S.C. 1985
 As amended

SHORT TITLE*Short title*

- 1.** This Act may be cited as the *Canada Evidence Act*.

PART I*Application**Application*

- 2.** This Part applies to all criminal proceedings and to all civil proceedings and other matters whatever respecting which Parliament has jurisdiction.

*Witnesses**Interest or crime*

- 3.** A person is not incompetent to give evidence by reason of interest or crime.

Incriminating questions

- 5. (1)** No witness shall be excused from answering any question on the ground that the answer to the question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person.

Answer not admissible against witness

- (2) Where with respect to any question a witness objects to answer on the ground that his answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person, and if but for this Act, or the Act of any provincial legislature, the witness would therefore have been excused from answering the question, then although the witness is by reason of this Act or the provincial Act compelled to answer, the answer so given shall not be used or admissible in evidence against him in any criminal trial or other criminal proceeding against him thereafter taking place,

other than a prosecution for perjury in the giving of that evidence.

Expert witnesses

- 7.** Where, in any trial or other proceeding, criminal or civil, it is intended by the prosecution or the defence, or by any party, to examine as witnesses professional or other experts entitled according to the law or practice to give opinion evidence, not more than five of such witnesses may be called on either side without the leave of the court or judge or person presiding.

Adverse witnesses

- 9. (1)** A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but if the witness, in the opinion of the court, proves adverse, the party may contradict him by other evidence, or, by leave of the court, may prove that the witness made at other times a statement inconsistent with his present testimony, but before the last mentioned proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make the statement.

Previous statements in writing by witness not proved adverse

- (2) Where the party producing a witness alleges that the witness made at other times a statement in writing, reduced to writing, or recorded on audio tape or video tape or otherwise, inconsistent with the witness' present testimony, the court may, without proof that the witness is adverse, grant leave to that party to cross-examine the witness as to the statement and the court may consider the cross-examination in determining whether in the opinion of the court the witness is adverse.

S.C. 1994, c. 44, s. 85.

*Oaths and Solemn Affirmations**Who may administer oaths*

13. Every court and judge, and every person having, by law or consent of parties, authority to hear and receive evidence, has power to administer an oath to every witness who is legally called to give evidence before that court, judge or person.

Solemn affirmation by witness instead of oath

14. (1) A person may, instead of taking an oath, make the following solemn affirmation:

I do solemnly affirm that the evidence to be given by me shall be the truth, the whole truth and nothing but the truth.

Effect

(2) Where a person makes a solemn affirmation in accordance with subsection (1), his evidence shall be taken and have the same effect as if taken under oath.

S.C. 1994, c. 44, s. 87.

Solemn affirmation by deponent

15. (1) Where a person who is required or who desires to make an affidavit or deposition in a proceeding or on an occasion on which or concerning a matter respecting which an oath is required or is lawful, whether on the taking of office or otherwise, does not wish to take an oath, the court or judge, or other officer or person qualified to take affidavits or depositions, shall permit the person to make a solemn affirmation in the words following, namely, "I,, do solemnly affirm, etc.", and that solemn affirmation has the same force and effect as if that person had taken an oath.

Effect

(2) Any witness whose evidence is admitted or who makes a solemn affirmation under this section or section 14 is liable to indictment and punishment for perjury in all respects as if he had been sworn.

S.C. 1994, c. 44, s. 88.

*Documentary Evidence**Certified copies*

24. In every case in which the original record could be admitted in evidence,

(a) a copy of any official or public document of Canada or of any province, purporting to be certified under the hand of the proper officer or person in whose custody the official or public document is placed, or

(b) a copy of a document, by-law, rule, regulation or proceeding, or a copy of any entry in any

register or other book of any municipal or other corporation, created by charter or Act of Parliament or the legislature of any province, purporting to be certified under the seal of the corporation, and the hand of the presiding officer, clerk or secretary thereof,

is admissible in evidence without proof of the seal of the corporation, or of the signature or official character of the person or persons appearing to have signed it, and without further proof thereof.

Books and documents

25. Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no other Act exists that renders its contents provable by means of a copy, a copy thereof or extract therefrom is admissible in evidence in any court of justice or before a person having, by law or by consent of parties, authority to hear, receive and examine evidence, if it is proved that it is a copy or extract purporting to be certified to be true by the officer to whose custody the original has been entrusted.

Books kept in offices under Government of Canada

26. (1) A copy of any entry in any book kept in any office or department of the Government of Canada, or in any commission, board or other branch of the public service of Canada, shall be admitted as evidence of that entry, and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of the office or department, commission, board or other branch of the public service of Canada that the book was, at the time of the making of the entry, one of the ordinary books kept in the office, department, commission, board or other branch of the public service of Canada, that the entry was made in the usual and ordinary course of business of the office, department, commission, board or other branch of the public service of Canada and that the copy is a true copy thereof.

Business records to be admitted in evidence

30. (1) Where oral evidence in respect of a matter would be admissible in a legal proceeding, a record made in the usual and ordinary course of business that contains information in respect of that matter is admissible in evidence under this section in the legal proceeding on production of the record.

Inference where information not in business record

(2) Where a record made in the usual and ordinary course of business does not contain information in

respect of a matter the occurrence or existence of which might reasonably be expected to be recorded in that record, the court may on production of the record admit the record for the purpose of establishing that fact and may draw the inference that the matter did not occur or exist.

Copy of records

(3) Where it is not possible or reasonably practicable to produce any record described in subsection (1) or (2), a copy of the record accompanied by two documents, one that is made by a person who states why it is not possible or reasonably practicable to produce the record and one that sets out the source from which the copy was made, that attests to the copy's authenticity and that is made by the person who made the copy, is admissible in evidence under this section in the same manner as if it were the original of the record if each document is

(a) an affidavit of each of those persons sworn before a commissioner or other person authorized to take affidavits; or

(b) a certificate or other statement pertaining to the record in which the person attests that the certificate or statement is made in conformity with the laws of a foreign state, whether or not the certificate or statement is in the form of an affidavit attested to before an official of the foreign state.

Where record kept in form requiring explanation

(4) Where production of any record or of a copy of any record described in subsection (1) or (2) would not convey to the court the information contained in the record by reason of its having been kept in a form that requires explanation, a transcript of the explanation of the record or copy prepared by a person qualified to make the explanation is admissible in evidence under this section in the same manner as if it were the original of the record if it is accompanied by a document that sets out the person's qualifications to make the explanation, attests to the accuracy of the explanation, and is

(a) an affidavit of that person sworn before a commissioner or other person authorized to take affidavits; or

(b) a certificate or other statement pertaining to the record in which the person attests that the certificate or statement is made in conformity with the laws of a foreign state, whether or not the certificate or statement is in the form of an affidavit attested to before an official of the foreign state.

Construction of this section

(11) The provisions of this section shall be deemed to be in addition to and not in derogation of

(a) any other provision of this or any other Act of Parliament respecting the admissibility in evidence of any record or the proof of any matter; or

(b) any existing rule of law under which any record is admissible in evidence or any matter may be proved.

Definitions

(12) In this section,

"business"

"business" means any business, profession, trade, calling, manufacture or undertaking of any kind carried on in Canada or elsewhere whether for profit or otherwise, including any activity or operation carried on or performed in Canada or elsewhere by any government, by any department, branch, board, commission or agency of any government, by any court or other tribunal or by any other body or authority performing a function of government;

"copy" and "photographic film"

"copy", in relation to any record, includes a print, whether enlarged or not, from a photographic film of the record, and "photographic film" includes a photographic plate, microphotographic film or photostatic negative;

"court"

"court" means the court, judge, arbitrator or person before whom a legal proceeding is held or taken;

"legal proceeding"

"legal proceeding" means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration;

"record"

"record" includes the whole or any part of any book, document, paper, card, tape or other thing on or in which information is written, recorded, stored or reproduced, and, except for the purposes of subsections (3) and (4), any copy or transcript admitted in evidence under this section pursuant to subsection (3) or (4).

S.C. 1994, c. 44, s. 91.

Definitions

31. (1) In this section,

"corporation"

"corporation" means any bank, including the Bank of Canada and the Business Development Bank of Canada, and each of the following carrying on business in Canada, namely, every railway, express, telegraph and telephone company (except a street railway and tramway company), insurance company;

"government"

"government" means the government of Canada or of any province and includes any department, commission, board or branch of any such government;

"photographic film"

"photographic film" includes any photographic plate, microphotographic film and photostatic negative.

When print admissible in evidence

(2) A print, whether enlarged or not, from any photographic film of

- (a) an entry in any book or record kept by any government or corporation and destroyed, lost or delivered to a customer after the film was taken,
- (b) any bill of exchange, promissory note, cheque, receipt, instrument or document held by any government or corporation and destroyed, lost or delivered to a customer after the film was taken, or
- (c) any record, document, plan, book or paper belonging to or deposited with any government or corporation,

is admissible in evidence in all cases in which and for all purposes for which the object photographed would have been admitted on proof that

- (d) while the book, record, bill of exchange, promissory note, cheque, receipt, instrument or document, plan, book or paper was in the custody or control of the government or corporation, the photographic film was taken thereof in order to keep a permanent record thereof, and
- (e) the object photographed was subsequently destroyed by or in the presence of one or more of the employees of the government or corporation, or was lost or was delivered to a customer.

Evidence of compliance with conditions

(3) Evidence of compliance with the conditions prescribed by this section may be given by any one or more of the employees of the government or corporation, having knowledge of the taking of the photographic film, of the destruction, loss or delivery

to a customer, or of the making of the print, as the case may be, either orally or by affidavit sworn in any part of Canada before any notary public or commissioner for oaths.

Proof by notarial copy

(4) Unless the court otherwise orders, a notarial copy of an affidavit under subsection (3) is admissible in evidence in lieu of the original affidavit.

S.C. 1992, c. 1, s. 142(1), Sch. V, item 9(1), (2);
S.C. 1995, c. 28, s. 47.

Provincial Laws of Evidence**How applicable**

40. In all proceedings over which Parliament has legislative authority, the laws of evidence in force in the province in which those proceedings are taken, including the laws of proof of service of any warrant, summons, subpoena or other document, subject to this Act and other Acts of Parliament, apply to those proceedings.

Statutory Declarations**Solemn declaration**

41. Any judge, notary public, justice of the peace, police or provincial court judge, recorder, mayor or commissioner authorized to take affidavits to be used either in the provincial or federal courts, or any other functionary authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making the declaration before him, in the following form, in attestation of the execution of any writing, deed or instrument, or of the truth of any fact, or of any account rendered in writing:

I,, solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Declared before me at this day of 19

R.S.C. 1985, c. 27 (1st Supp.), s. 203.

The above excerpts of the *Canada Evidence Act* are from chapter C-5 of the *Revised Statutes of Canada*, 1985, as amended by:

- R.S.C. 1985, c. 27 (1st Supp.), s. 203; RA 20.06.85; CIF 04.12.85 (SI/85-211).
- R.S.C. 1985, c. 19 (3rd Supp.), ss. 17 to 19; RA 30.06.87; CIF 01.01.88 (SI/87-259).
- S.C. 1992, c. 1, s. 142(1)[Sch. V, item 9(1), 9(2)] and s. 144[Sch. VII, item 5]; RA 28.02.92; CIF 28.02.92 except s. 142(1)[Sch. V, item 9(2)]; s. 142(1)[Sch. V, item 9(2)] CIF 01.09.94 (s. 142, SI/94-115).
- S.C. 1992, c. 47, s. 66; RA 15.10.92; CIF 01.08.96 (SI/96-56).
- S.C. 1993, c. 34, s. 15; RA 23.06.93.
- S.C. 1994, c. 44, ss. 85 to 93; RA 15.12.94; CIF 15.02.95 (SI/95-20).
- S.C. 1995, c. 28, s. 47; RA 13.07.95.

Canada Lands Surveys Act

An Act respecting the surveys of public lands of Canada

Excerpts from
Chapter L-6, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Canada Lands Surveys Act*.

INTERPRETATION

Definitions

2. (1) In this Act,

"Board"

"Board" means the Board of Examiners appointed under section 5;

"Canada Lands Surveyor"

"Canada Lands Surveyor" means a person who holds a commission;

"candidate"

"candidate" means an applicant for a commission;

"commission"

"commission" means a valid and subsisting commission granted under this Act authorizing the person to whom it is granted to survey lands under this Act;

"Commissioner"

"Commissioner" means

(a) in respect of the properties described in section 47 of the *Yukon Act*, the Commissioner of the Yukon Territory, and

(b) in respect of the properties described in section 44 of the *Northwest Territories Act*, the Commissioner of the Northwest Territories;

"examination"

"examination" means the examination of a candidate;

"Minister"

"Minister" means, except in Part III, the Minister of Natural Resources;

"monument"

"monument" means a post, stake, peg, mound, pit, trench or any other object, thing or device used under this Act or under the *Dominion Lands Surveys Act*, chapter 117 of the Revised Statutes of Canada, 1927, to mark a boundary of surveyed lands;

"prescribed"

"prescribed" means prescribed in rules or regulations made by the Board;

"Secretary"

"Secretary" means the Secretary of the Board;

"survey"

"survey" includes a resurvey and a special survey;

"surveyor"

"surveyor" means a Canada Lands Surveyor or a person who is entitled to survey lands in a province under the laws of the province;

"Surveyor General"

"Surveyor General" means a person who is a Canada Lands Surveyor and is appointed as Surveyor General in the manner authorized by law or a person authorized by the Minister to carry out the duties of the Surveyor General.

Where commission deemed to be held

(2) Every person who holds a valid and subsisting certificate as a Dominion topographical surveyor or a valid and subsisting commission as a Dominion land surveyor is deemed to hold a commission granted under this Act.

S.C. 1994, c. 41, s. 37.

ADMINISTRATION

Minister to have control

3. (1) The Minister has the administration, direction and control of surveys under this Act.

Duties of Surveyor General

(2) The Surveyor General, subject to the direction of the Minister, has the management of surveys under this Act and the custody of all the original plans, journals, field notes and other papers connected with those surveys.

Substitute for Surveyor General

(3) The Minister may authorize an employee of the Department of Natural Resources who is a surveyor to

carry out all or any of the duties of the Surveyor General.

S.C. 1994, c. 41, s. 38.

Governor in Council may make regulations

4. (1) The Governor in Council may make such orders and regulations as he deems necessary to carry out this Act or to meet any cases with reference to surveys under the management of the Surveyor General for which no provision is made in this Act.

Tariff of fees

(2) The Minister may establish a tariff of fees to be charged by the Department of Natural Resources for copies of maps, plans, field notes, or any other type of record or document arising from or respecting surveys under this Act and those fees shall form part of the Consolidated Revenue Fund.

S.C. 1994, c. 41, s. 38.

PART I

EXAMINATIONS, POWERS AND DUTIES OF CANADA LANDS SURVEYORS

Board of Examiners

Constitution of Board of Examiners

5. (1) The Governor in Council shall appoint a Board of Examiners consisting of the Surveyor General, who shall be Chairman, and four other members.

Vacancies

(2) Where a member of the Board, other than the Chairman, is, in the opinion of the Governor in Council, unable permanently or temporarily to perform the duties of his office, the Governor in Council may, as he deems expedient, appoint a new member or a temporary member to replace that member.

Qualifications

(3) Four of the members of the Board shall be persons having training or practical experience in the major fields of surveying.

Tenure of office

(4) Members of the Board, other than the Chairman, hold office during pleasure.

Quorum

(5) Three members of the Board constitute a quorum.

Secretary

(6) The Minister shall appoint a person to be Secretary of the Board whose duties include the keeping of records of all proceedings of the Board.

Oath or affirmation

(7) Every member or temporary member of the Board shall, before entering office, take an oath or solemn affirmation in the following form:

I,, do solemnly swear (or affirm) that I will faithfully discharge the duty of an examiner of candidates for commissions as Canada Lands Surveyors, according to law, and without favour, affection or partiality. (*Add, in the case of an oath, "So help me God"*).

S.C. 1993, c. 44, s. 181.

Compliance with directions

6. (1) The Board shall comply with any directions given to it by the Governor in Council or by the Minister with respect to the exercise of its powers.

Duty to examine candidates

(2) Subject to section 8, the Board shall examine candidates.

Regulations by Board re examinations

(3) The Board has control over all matters relating to the examination, admission and qualifications of candidates and may, for those purposes, with the approval of the Governor in Council, make rules or regulations prescribing

- (a) the subjects in which candidates shall be examined;
- (b) the conduct of examinations including notice to be given respecting examinations;
- (c) the standards, nature and length of training and experience in surveying required of any candidate;
- (d) such forms, rules, instructions and regulations as the Board deems requisite in any matter respecting the examination, admission and qualifications of candidates;
- (e) the form of commissions; and
- (f) the fees payable by candidates.

Remuneration of members and Secretary

7. Every member or temporary member of the Board and the Secretary, whether or not he is employed or paid in any other capacity in the public service of Canada, may, in respect of the performance of his duties and functions under this Act, be paid

- (a) remuneration at an annual rate to be fixed by the Treasury Board; and

(b) his actual living and travel expenses incurred while away from his normal place of residence.

S.C. 1992, c. 54, s. 80.

Special Examiners

Appointment

8. (1) The Minister may, on the recommendation of the Board, appoint qualified persons as special examiners to examine candidates, to prepare examination papers and to appraise the responses of candidates thereto.

Ex officio special examiners

(2) A member of the Board is, *ex officio*, a special examiner.

Qualifications

(3) Persons qualified for appointment as special examiners are

- (a) Canada Lands Surveyors;
- (b) provincial land surveyors duly qualified under the laws of the province in which they will preside at examinations to be held therein; or
- (c) persons who are, in the opinion of the Board, particularly conversant with the specific subjects of the various examinations.

Oath

(4) Every special examiner, other than a member of the Board, shall before entering office take the oath described in subsection 5(7).

Fees to special examiners

9. Every special examiner, other than a member of the Board, may be paid for the work performed with respect to the preparation of examination papers and with respect to the appraisal of responses of candidates thereto, and for each day on which he presides at an examination such fees as may be fixed by the Treasury Board together with his actual living and travel expenses incurred while away from his normal place of residence.

Examinations

Examinations by Board

10. (1) The Board shall, in order to hold examinations, meet at Ottawa on the second Monday in the month of February in each year and at such other times and places as the Minister may direct.

Examinations by special examiners

(2) The Minister may direct that examinations be held by special examiners at such times and places as the Minister thinks fit.

Notice of examinations

(3) Subject to subsection (4), notice of examinations to be held under this section shall be published in the *Canada Gazette* as prescribed.

Notice in special cases

(4) The Minister may, in special cases where the Minister deems it expedient, dispense with publication of notice of an examination or may direct that notice may be given in a manner other than as prescribed.

Subject to Board's regulations

11. Unless otherwise provided for in this Act, all examinations are subject to the rules and regulations made by the Board.

Candidates to send notice, etc.

12. (1) No candidate shall be examined unless the candidate has, in accordance with this Act and the rules and regulations made by the Board,

- (a) submitted notice of his intention to be examined;
- (b) paid all fees required in respect of an examination; and
- (c) complied with all requirements relating to an examination.

Eligibility for examination

(2) Subject to subsection (3), no candidate is eligible to be examined for a commission unless the candidate

- (a) demonstrates to the satisfaction of the Board that the candidate has been adequately instructed in subjects prescribed by the Board; and
- (b) has received the prescribed training and experience in surveying and has filed with the Secretary a record of such training and experience.

Lesser period of experience

(3) The Board may permit a candidate to be examined for a commission before the candidate has received the prescribed training and experience in surveying if the Board is satisfied that the candidate will receive such training and experience within one year of the examination.

Proof of compliance with rules and regulations

(4) Where, pursuant to subsection (3), the Board permits a candidate to be examined for a commission,

no commission shall be granted to the candidate until the candidate has furnished the Board with affidavits or other evidence acceptable to the Board showing that the candidate has fully complied with the rules and regulations.

Examination under oath

13. The Board or a special examiner, as the case may be, may examine a candidate under oath, to be administered by a member of the Board or the special examiner, respecting any qualification or other matter relating to the examination of the candidate.

Commissions

Grant of commissions

14. The Board may grant a commission as a Canada Lands Surveyor to a person who

- (a) has complied with the requirements of this Act respecting eligibility for an examination for a commission; and
- (b) has complied with all the rules and regulations made by the Board under subsection 6(3).

Holder of commission to take oath

15. (1) Every person who is granted a commission shall, before commencing practice as a Canada Lands Surveyor,

- (a) take an oath or solemn affirmation, before any person duly authorized to take it, in the following form:

I,, do solemnly swear (or affirm) that I will faithfully discharge the duties of a Canada Lands Surveyor according to law and without favour, affection or partiality. (*Add, in the case of an oath, "So help me God";* and

- b) pay the prescribed fee.

Registration of commissions

(2) Every commission shall be registered in the office of the Registrar General of Canada.

Filing of oath or affirmation

(3) An oath or affirmation referred to in subsection (1) shall be filed and kept in the office of the Surveyor General.

S.C. 1993, c. 44, s. 182.

Cancellations and Suspension of Commissions

Grounds for suspension or cancellation

16. (1) The Board may suspend a commission for such period as it thinks advisable or may cancel a commission where it finds that the holder thereof is guilty of

- (a) gross negligence or corrupt practice in carrying out his duties as a surveyor;
- (b) certifying to false returns of a survey;
- (c) certifying as his survey a survey made by another surveyor; or
- (d) making a survey in which he has used a measure that is not regulated and verified in accordance with this Act.

Procedure

(2) The Board shall not make a finding under subsection (1) unless and until

- (a) the Secretary has, at least thirty days before the day on which a finding is to be made, sent to the surveyor a registered letter containing a notice of the grounds for cancellation or suspension to be considered by the Board and notifying the surveyor to appear before the Board at the day set for the hearing;
- (b) the Board has heard such evidence as may be adduced in support of the charges against the surveyor; and
- (c) the Board has heard such evidence in rebuttal of the charges as may be adduced by the surveyor, by witnesses called by the surveyor or, in the event that the surveyor fails to appear, by a person appointed by the Board to act on behalf of the surveyor.

Duties and Powers of Surveyors

Verification of surveys

17. (1) The Surveyor General shall require every surveyor to verify and affirm by oath or otherwise to the satisfaction of the Surveyor General on each return of his surveys under this Act that the surveyor has faithfully and correctly executed such surveys in accordance with this Act and with any instructions issued to the surveyor by the Surveyor General.

Proceedings on false surveys

(2) Where a court of competent jurisdiction finds that a survey or any part thereof has not been executed as verified under subsection (1), the Attorney General of Canada may, on application of the Surveyor

General, institute proceedings to recover costs from the surveyor who verified the returns.

Field notes

18. Every surveyor shall keep exact and regular field notes of all his surveys under this Act and shall file them with the Surveyor General in the order of time in which the surveys have been performed.

Entry on private lands

19. A surveyor may, for the purposes of carrying out a survey of lands under this Act, enter on, pass over or measure the boundaries of the lands of any person, but the surveyor shall take all reasonable precautions to avoid causing any damage in so doing.

Taking evidence, etc.

20. (1) A surveyor may, in carrying out a survey of lands under this Act, if the surveyor believes on reasonable grounds that any person may have knowledge of any matter relating to the survey,

- (a) request the person to appear before the surveyor as a witness;
- (b) apply to a justice of the peace for a subpoena compelling the person to appear before the surveyor to give evidence and to bring such documents as may be specified in the subpoena; and
- (c) take evidence from any person requested or compelled to appear before the surveyor under an oath or a solemn affirmation to be administered by the surveyor.

Justice of the peace may issue subpoena

(2) A justice of the peace may, on application by a surveyor supported by an affidavit by the surveyor setting forth the reason for requiring the attendance of a witness, issue the subpoena referred to in subsection (1).

Service and contents of subpoena

(3) A subpoena under this section shall either be personally served on the person named therein or left with an adult person at the residence of that person and shall state the time and place at which the hearing before the surveyor will be held.

Expenses of witnesses

(4) A surveyor may tender to a witness under this section such conduct money as will, in the opinion of the surveyor, compensate the witness for his reasonable expenses in attending before the surveyor and, in the event of a dispute as to the amount, shall

refer the matter to a justice of the peace whose decision therein shall be final.

Warrant

(5) Where a person named in a subpoena refuses or fails to appear before a surveyor at the time and place named in the subpoena, the surveyor may apply to a justice of the peace for a warrant against that person and the justice of the peace may issue the warrant.

Evidence to be put into writing and registered

21. All evidence, including any documents or other exhibits produced at the hearing, taken before a surveyor under section 20 shall be

- (a) reduced to writing;
- (b) read to and affirmed by the witness by whom it is given and by the surveyor; and
- (c) filed and kept in the office of the Surveyor General as part of the returns of the survey.

Surveys made by Canada Lands Surveyor under other Act

22. The provisions of sections 17 to 21 and 23 apply, with such modifications as the circumstances require, to surveys under any other Act of Parliament, or any regulation made thereunder, or any ordinance of the Yukon Territory or Northwest Territories where the Act, regulation or ordinance requires the surveys to be made by a Canada Lands Surveyor.

Standard of Measure

Canadian measure of length

23. (1) The measure of length for surveys under this Act is the Canadian measure of length defined by the *Weights and Measures Act*.

Means of measurement

- (2) In any survey under this Act, a surveyor shall use
 - (a) a measuring device that is of a type approved by the Surveyor General and that is calibrated, checked and verified in accordance with the instructions of the Surveyor General; or
 - (b) other means of measurement of length, position or direction authorized by the Surveyor General under the circumstances that the Surveyor General may prescribe.

PART II

SURVEYS OF CANADA LANDS

*General**Definition of "Canada Lands"*

24. (1) In this Part, "Canada Lands" means

(a) any lands belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose that are situated in the Yukon Territory, the Northwest Territories or in any National Park of Canada and any lands that are

(i) surrendered lands or a reserve, as defined in the *Indian Act*,

(ii) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*, chapter 18 of the Statutes of Canada, 1984;

(iii) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*, chapter 27 of the Statutes of Canada, 1986; or

(iv) settlement land, as defined in the *Yukon First Nations Self-Government Act*, and lands in which an interest is transferred or recognized under section 21 of that Act; and

(b) any lands under water belonging to Her Majesty in right of Canada or in respect of any rights in which the Government of Canada has power to dispose.

Surveys of Canada Lands

(2) Surveys of Canada Lands shall be made in accordance with the instructions of the Surveyor General.

R.S.C. 1985, c. 20 (2nd Supp.), s. 4;

S.C. 1994, c. 35, s. 35.

When surveys undertaken

25. The Minister shall cause surveys to be made of Canada Lands on the request of a minister of any department of the Government of Canada or a Commissioner administering the Lands and may do so in any other case in which he deems it to be expedient.

Who may survey Canada Lands

26. (1) Subject to subsection (2), no person other than a Canada Lands Surveyor shall survey Canada Lands.

*Who may survey Canada Lands**within the boundaries of a province*

(2) A Canada Lands Surveyor or any other surveyor authorized by the Surveyor General may survey Canada Lands that lie within the boundaries of a province but, where surveys of those Canada Lands affect or are likely to affect the rights of landowners of adjoining lands that are not Canada Lands the surveys shall be made by a surveyor of the province in which those surveys are made.

*Surveys**Minister may direct manner of survey*

27. The Minister may direct that Canada Lands be surveyed, laid out and defined in any manner, by any method of surveying and with any description that the Minister considers desirable in the circumstances affecting those lands.

Coordinated Survey Area

28. (1) The Minister may establish a Coordinated Survey Area within any lands dealt with in this Act or alter any such Area by a notice published in the *Canada Gazette*.

Position of monuments

(2) Within a Coordinated Survey Area, the position of all new monuments placed and all monuments that are relevant to the placement of new monuments shall be determined by surveyed connection to reference points specified for that purpose and shall be expressed in terms of the system of coordinates specified for the Area, in accordance with the instructions of the Surveyor General.

Idem

(3) Within a Coordinated Survey Area, the position of all monuments placed prior to the establishment of the Area may be determined and shall be expressed in the manner described in subsection (2), in accordance with the instructions of the Surveyor General.

Where position of monument is lost

(4) Where the position of a monument that has been determined in accordance with this section is lost, the coordinates of the monument are, in the absence of evidence to the contrary, proof of its position.

*Plans**Plotting of plans*

29. (1) Plans of Canada Lands that are surveyed under this Part shall be plotted, under the direction of the

Surveyor General, from the surveyor's field notes and other documents relating to the survey.

Content of plans

(2) The direction and length of boundaries and the nature and position of the boundary monuments of the parcels of land laid out shall be shown on the plans.

Confirmation

(3) The Surveyor General shall indicate his confirmation on the plans, if he is satisfied that the survey has been carried out in conformity with this Act and that the survey and plans are satisfactory to the minister of the department of the Government of Canada or the Commissioner administering the Canada Lands in respect of which the survey was made.

Effect of confirmation

(4) On confirmation by the Surveyor General, the plans shall be deemed to be official plans under this Act.

Confirmation of plans

(5) No survey of Canada Lands under this Part shall be deemed to be completed until the plans thereof have been confirmed under this section.

New plans to correct clerical errors, etc.

(6) Where the Surveyor General finds that a plan that has been confirmed under this section has been improperly or incorrectly plotted from the surveyor's field notes and other documents relating to the survey or that there is an omission, clerical error or other defect in the plan, the Surveyor General may cause a new plan to be plotted from the surveyor's field notes and other documents relating to the survey or a new plan to be made correcting the omission, clerical error or other defect.

Effect of new plan

(7) The new plan referred to in subsection (6) shall, after confirmation thereof by the Surveyor General, be deemed to be the official plan under this Act of the lands thereby affected and shall be substituted for all, or corresponding portions of all, former official plans of the lands thereby affected.

Plans to be sent for filing

30. The Minister shall cause a copy of an official plan under this Act to be sent to the registrar of deeds or of land titles of the county, district or other registration division in which the lands are situated for filing in the registry or land titles office of that county, district or other registration division.

Administrative plans

31. The Surveyor General may, for administrative purposes, make such plans of public lands as the Surveyor General deems expedient, but plans made under this section need not be confirmed under section 29 or sent to a registrar under section 30.

Boundaries

True boundary lines

32. (1) All boundary lines of roads, streets, lanes, lots, parcels or other authorized subdivisions of Canada Lands that are defined by monuments in surveys made under this Part shall, after confirmation of the plans by the Surveyor General, be the true boundary lines of those roads, streets, lanes, lots, parcels or other authorized subdivisions, whether or not they are found to contain, on admeasurement, the exact area or dimensions described or expressed in a plan, letters patent, grant or other instrument affecting those Canada Lands.

Roads, etc., to be public highways

(2) With respect to Canada Lands situated in the Yukon Territory or the Northwest Territories, all allowances laid out in surveys of roads, streets, lanes or commons in any city, town, village or settlement shall be public highways or commons.

Resurveys

Resurveys

33. (1) Canada Lands may be resurveyed under this Part

(a) for the purposes of correcting errors or supposed errors or re-establishing lost monuments; or

(b) at the request of the member of Her Majesty's Privy Council for Canada or the Commissioner charged with administering the Canada Lands in respect of which the resurvey is to be made.

Plans of resurveyed lands

(2) Plans of Canada Lands that are resurveyed shall be dealt with in accordance with this Part and shall, after confirmation thereof by the Surveyor General, be deemed to be the official plans under this Act of the lands thereby affected and shall be substituted for all, or corresponding portions of all, former official plans of the lands thereby affected.

PART III

SPECIAL SURVEYS OF TERRITORIAL LANDS

Scope and Administration

Definitions

34. In this Part,

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"territorial lands"

"territorial lands" means any lands situated in the Yukon Territory or the Northwest Territories.

Special Surveys

Scope and purposes of special surveys

35. Special surveys of territorial lands may be made for any or all of the following purposes:

- (a) the correction of errors or supposed errors in existing surveys or plans;
- (b) the subdivision of land not previously subdivided or the showing of divisions of land not previously or correctly shown on an existing plan of subdivision;
- (c) fixing the location or width of roads or highways;
- (d) establishing any boundary lines the positions of which, due to incorrect placing or loss or obliteration of monuments defining the lines on the ground, have become doubtful or difficult of being ascertained; and
- (e) any other purpose deemed necessary by the Minister or the Commissioner.

When undertaken

36. (1) The Minister of Natural Resources shall cause a special survey of territorial lands to be made when requested to do so by the Minister or the Commissioner.

Surveyor General to manage

(2) The Surveyor General, subject to the direction of the Minister of Natural Resources, has the management of special surveys.

Canada Lands Surveyor

(3) No person, other than a Canada Lands Surveyor, shall make a special survey.

How survey is made

(4) A special survey shall be made by a Canada Lands Surveyor in accordance with the instructions given to him by the Surveyor General and all sections of this Act with respect to the powers, duties and obligations of Canada Lands Surveyors and to the making of surveys apply, with such modifications as the circumstances require, to special surveys.

S.C. 1994, c. 41, s. 37.

Procedure of Special Surveys

Plotting of plans

37. (1) On completion of a special survey referred to in subsection 36(1), the surveyor shall send all field notes and other documents relating to the survey to the Surveyor General who shall direct the plotting of the plan of the territorial lands so surveyed.

Plan sent to Minister or Commissioner

(2) On the completion of the plotting of the plan referred to in subsection (1), the Surveyor General shall sign the plan and forward it, together with such supporting documents as the Surveyor General thinks necessary, to the Minister or the Commissioner.

Appointment of Hearing Officer

38. (1) On receiving the plan forwarded by the Surveyor General pursuant to subsection 37(2), the Minister or the Commissioner shall appoint a Hearing Officer to inquire into and report on any complaints that may be made against the special survey or plan.

Place of inquiry

(2) A Hearing Officer shall hold hearings in or as near as practicable to the locality in which the special survey has been made.

Publication of notice

(3) The Minister or the Commissioner shall cause to be published in the *Canada Gazette* and in a newspaper, if any, in the locality in which the special survey has been made a notice setting forth

- (a) a description of the scope and purposes of the special survey and the lands affected thereby;
- (b) his declaration that the special survey and plan are the true and correct survey and plan of the lands thereby affected, that all boundaries and lines fixed by the survey and plan are the true boundaries and lines, whether of roads, streets, lanes, rivers or creeks or as between adjoining owners or between adjoining lots and whether or not the boundaries and lines were in fact before the declaration the true boundaries and lines, and

that the special survey and plan shall be substituted for all, or corresponding portions of all, former surveys or plans of the lands affected that have been theretofore registered;

(c) the name of the Hearing Officer appointed by him and the time and place at which the Hearing Officer will hear complaints; and

(d) that each person who has an interest in land affected by the special survey and plan and who desires to complain against the survey or the plan shall deliver, at least thirty days before the date set for the Hearing Officer's hearing, to the Minister or the Commissioner a written statement setting forth the nature and grounds of his complaint.

Where no complaints

39. Where no complaints are received pursuant to paragraph 38(3)(d), the Minister or the Commissioner shall return the plan to the Surveyor General to be confirmed by him.

Hearing of complaints

40. (1) Where complaints are received pursuant to paragraph 38(3)(d), the Hearing Officer shall hear them at the time and place set forth in the notice published pursuant to subsection 38(3), but may adjourn the hearing on giving due notice to the complainants.

Nature of hearing

(2) A Hearing Officer shall hear only those complaints of which written notice has been given to the Minister or the Commissioner but may, for this purpose, receive any evidence he thinks proper, call any witnesses and exercise any of the powers of a commissioner under the *Inquiries Act*.

Report

(3) A Hearing Officer shall, on completion of the hearing, report his findings and recommendations to the Minister or the Commissioner.

Minister's or Commissioner's decision

41. (1) The Minister or the Commissioner shall, after receiving a Hearing Officer's report, decide whether the plan and whether any of the matters set forth in the declaration referred to in paragraph 38(3)(b) should be approved or amended, varied or altered as a result of the complaints.

Notice of decision

(2) The Minister or the Commissioner shall prepare a notice of decision setting forth

(a) that he has received the Hearing Officer's report;

(b) his decision as to the disposition of the complaints and the resulting changes, if any, in the plan and in any of the matters set forth in the declaration referred to in paragraph 38(3)(b);

(c) that any person to whom the notice of decision is mailed has a right of appeal from the decision to the Supreme Court of the Yukon Territory or of the Northwest Territories, as the case may be, within sixty days after the date of the notice; and

(d) that any person who appeals from the decision is required to serve the Minister or the Commissioner with a notice of appeal within the time referred to in paragraph (c).

To whom notice of decision sent

(3) The Minister or the Commissioner shall cause a copy of the notice of decision to be mailed by registered mail to each of the following persons at his latest known address:

(a) persons whose complaints have been heard by the Hearing Officer pursuant to section 40; and

(b) persons whose interests in land affected by, the special survey and plan are, in the opinion of the Minister or the Commissioner, affected by his decision under this section to an extent that differs in any way from the extent to which they were affected by the declaration referred to in paragraph 38(3)(b).

Who may appeal

(4) Any person to whom a notice of decision is mailed under this section may, within sixty days after the date of the notice of decision and if within that time the person serves the Minister or the Commissioner with a notice of appeal, appeal from the decision of the Minister or the Commissioner to the Supreme Court of the Yukon Territory or of the Northwest Territories, as the case may be.

Where complaints withdrawn, etc.

42. Where all persons who have a right of appeal under section 41 have submitted written withdrawals of their complaints or have notified the Minister or the Commissioner in writing that they do not intend to appeal, the Minister or the Commissioner shall return the plan to the Surveyor General who shall confirm, amend, alter or vary the plan as directed by the Minister or the Commissioner.

Where no appeal taken

43. Where there is no appeal from the decision of the Minister or the Commissioner within the time limited therefor, the Minister or the Commissioner shall return the plan to the Surveyor General who shall confirm, amend, alter or vary the plan as directed by the Minister or the Commissioner.

Powers of court on appeal and effect of judgment

44. Where an appeal is taken from the decision of the Minister or the Commissioner, the court hearing the appeal may confirm, amend, alter or vary the decision of the Minister or the Commissioner and the Surveyor General shall accordingly confirm, amend, alter or vary the plan.

Registration of plans

45. (1) The Minister of Natural Resources shall send to the registrar of land titles of the registration district in which the lands affected thereby are situated, for filing in the appropriate land titles office, a copy of

(a) the plan confirmed by the Surveyor General under section 39 together with the accompanying declaration referred to in paragraph 38(3)(b),

(b) the plan confirmed by the Surveyor General under section 42 together with the accompanying notice of decision referred to in subsection 41(2),

(c) the plan confirmed by the Surveyor General under section 43 together with the accompanying notice of decision referred to in subsection 41(2), or

(d) the plan as confirmed, amended, altered or varied by the Surveyor General pursuant to the judgment on appeal under section 44 together with the accompanying certified copy of the judgment,

as the case may require.

Effect of registration

(2) On filing in the appropriate land titles office, the plan and accompanying documents referred to in subsection (1) shall be deemed to be substituted for all, or corresponding portions of all, former surveys or plans of the lands thereby affected that have been theretofore registered and shall govern all boundaries of the lands thereby affected.

S.C. 1994, c. 41, s. 37.

Return of documents to Surveyor General

46. All original plans, field notes or other documents relating to special surveys sent by the Surveyor General to the Minister or the Commissioner for his decision or used in evidence on appeal or otherwise leaving the

custody of the Surveyor General shall be returned to his custody.

PART IV**GENERAL***General Power to Survey**General power to survey*

47. (1) Subject to this Act, the Minister may, if in his opinion a survey thereof under the management of the Surveyor General is required, cause a survey to be made of any lands belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose, but where surveys of the lands affect or are likely to affect the rights of landowners of adjoining lands, the surveys shall be made by a surveyor who holds a valid and subsisting certificate, diploma, commission or other document entitling him to survey lands in the province in which the surveys are made.

Survey provisions

(2) The provisions of this Act relating to surveys apply, with such modifications as the circumstances require, to surveys made under subsection (1).

*Evidence**Certified copies as evidence*

48. (1) A copy certified by the Minister, the Surveyor General or any person authorized to do so by either of them as a true copy of any record, document, plan, book or paper belonging to or deposited with the Surveyor General with respect to a survey of lands made under this Act shall in all actions or other legal proceedings involving those lands be given the same effect as evidence as the original record, document, plan, book or paper would be given.

Lithographed maps, etc., as evidence

(2) Lithographed or other copies of maps or plans purporting to be issued or published by the Department of Natural Resources and to bear a lithographed or copied signature of the Minister or the Surveyor General are, in all actions or other legal proceedings involving lands surveyed under this Act, evidence of the original map or plan and its contents.

S.C. 1994, c. 41, s. 37.

Who may take affidavits, etc.

49. Unless otherwise provided in this Act, any oath, affidavit, declaration or solemn affirmation required to be taken under this Act may be taken before any judicial officer, notary public, commissioner for taking affidavits or Canada Lands Surveyor or before any other person thereunto authorized by the Minister.

Minister may require sworn statements

50. The Minister may require any statement made in respect of surveys under this Act to be verified by oath, affidavit, declaration or solemn affirmation.

*Offences and Punishment**Failure to appear as a witness*

51. Every person who refuses or fails to appear before a surveyor and against whom a warrant is issued under subsection 20(5) is guilty of an offence punishable on summary conviction.

Molesting surveyor

52. Every person who interrupts, molests or hinders a surveyor in the performance of his duties with respect to a survey under this Act is guilty of an offence punishable on summary conviction.

Defacing monuments

53. (1) Every person who, knowingly and wilfully, pulls down, alters, defaces or removes any monument erected, planted or placed by a surveyor in carrying out his duties under this Act or the *Dominion Lands Surveys Act*

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding seven years, or

(b) is guilty of an offence punishable on summary conviction

and, in addition, is liable to payment of all costs in connection with the restoration or re-establishment of the monument by a surveyor under instructions from the Surveyor General.

Defacing monuments inadvertently

(2) Every person who inadvertently pulls down, alters, defaces or removes any monument erected, planted or placed by a surveyor in carrying out his duties under this Act or the *Dominion Lands Surveys Act* is liable to payment of all costs in connection with the restoration or re-establishment of the monument by a surveyor under instructions from the Surveyor General.

Unlawful possession of monuments

(3) Every person who, knowingly and wilfully, has in his possession or custody any monument is guilty of an offence punishable on summary conviction.

Exception

(4) This section does not apply to the alteration, removal, possession and custody of monuments by any surveyor authorized to carry out surveys under this Act or by other persons with the permission of such surveyor or who otherwise necessarily handle such monuments in connection with surveys under this Act.

Person who poses as Canada Lands Surveyor

54. Every person, other than a Canada Lands Surveyor, who

(a) uses the title "Canada Lands Surveyor", uses any addition to or abbreviation of that title, or uses any words, name or designation that will lead to the belief that he is a Canada Lands Surveyor, or

(b) advertises, holds himself out or conducts himself in any way or by any means as a Canada Lands Surveyor

is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

The above excerpts of the *Canada Lands Surveys Act* are from chapter C-5 of the *Revised Statutes of Canada, 1985*, as amended by:

- R.S.C. 1985, c. 20 (2nd Supp.), s. 4; RA 17.06.86; CIF 09.10.86 (SI/86-193).
- S.C. 1992, c. 54, s. 80; RA 17.12.92; CIF 01.06.93 (SI/93-58).
- S.C. 1993, c. 44, ss. 181, 182; RA 23.06.93; CIF 01.01.94 (SI/94-1).
- S.C. 1994, c. 35, s. 35; RA 07.07.94; CIF 14.02.95 (SI/95-19).
- S.C. 1994, c. 41, ss. 37, 38; RA 15.12.94; CIF 12.01.95 (SI/95-10).

Canada Oil and Gas Operations Act

(Formerly: *Oil and Gas Production and Conservation Act*)

An Act respecting oil and gas operations in Canada

Excerpts from
Chapter O-7, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Canada Oil and Gas Operations Act*.

S.C. 1992, c. 35, s. 2.

Grants Act and the Territorial Lands Act and includes orders made pursuant to those Regulations;

"gas"

"gas" means natural gas and includes all substances, other than oil, that are produced in association with natural gas;

"lease"

"lease" means an oil and gas lease issued pursuant to regulations made in accordance with the *Territorial Lands Act* and the *Public Lands Grants Act* and includes a production licence issued under the *Canada Petroleum Resources Act*;

"Minister"

"Minister" means

(a) in relation to any area in respect of which the Minister of Indian Affairs and Northern Development has administrative responsibility for the natural resources therein, the Minister of Indian Affairs and Northern Development, and

(b) in relation to any area in respect of which the Minister of Natural Resources has administrative responsibility for the natural resources therein, the Minister of Natural Resources;

INTERPRETATION

Definitions

2. In this Act,

"Accord Acts"

"Accord Acts" means

(a) the *Canada-Newfoundland Atlantic Accord Implementation Act*, and

(b) the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*;

"Chief Conservation Officer"

"Chief Conservation Officer" means the person designated as the Chief Conservation Officer under section 3.1;

"Committee"

"Committee" means the Oil and Gas Committee established by section 6;

"federal Ministers"

"federal Ministers" means the Minister of Natural Resources and the Minister of Indian Affairs and Northern Development;

"field"

(a) means a general surface area underlain or appearing to be underlain by one or more pools, and

(b) includes the subsurface regions vertically beneath the general surface area referred to in paragraph (a);

"former regulations"

"former regulations" means the *Canada Oil and Gas Land Regulations* made pursuant to the *Public Lands*

"oil"

"oil" means

(a) crude petroleum regardless of gravity produced at a well-head in liquid form, and

(b) any other hydrocarbons, except coal and gas, including hydrocarbons that may be extracted or recovered from surface or subsurface deposits, including deposits of oil sand, bitumen, bituminous sand, oil shale and other types of deposits;

"permit"

"permit" means an exploratory oil and gas permit issued pursuant to regulations made in accordance with the *Territorial Lands Act and the Public Lands Grants Act* and includes an exploration agreement entered into under the *Canada Oil and Gas Land Regulations* and any exploration agreement or licence that is subject to the *Canada Petroleum Resources Act*;

"pipeline"

"pipeline" means any pipe or any system or arrangement of pipes by which oil, gas or water incidental to the drilling for or production of oil or gas is conveyed from any well head or other place at which it is produced to any other place, or from any place where it is stored, processed or treated to any other place, and includes all property of any kind used for the purpose of, or in connection with or incidental to, the operation of a pipeline in the gathering, transporting, handling and delivery of oil or gas, and, without restricting the generality of the foregoing, includes offshore installations or vessels, tanks, surface reservoirs, pumps, racks, storage and loading facilities, compressors, compressor stations, pressure measuring and controlling equipment and fixtures, flow controlling and measuring equipment and fixtures, metering equipment and fixtures, and heating, cooling and dehydrating equipment and fixtures, but does not include any pipe or any system or arrangement of pipes that constitutes a distribution system for the distribution of gas to ultimate consumers;

"pool"

"pool" means a natural underground reservoir containing or appearing to contain an accumulation of oil or gas or both oil and gas and being separated or appearing to be separated from any other such accumulation;

"prescribed"

"prescribed" means prescribed by regulations made by the Governor in Council;

"Provincial Minister"

"Provincial Minister" means the Provincial Minister within the meaning of either of the Accord Acts;

"well"

"well" means any opening in the ground, not being a seismic shot hole, that is made, to be made or is in the process of being made, by drilling, boring or other method,

- (a) for the production of oil or gas,
- (b) for the purpose of searching for or obtaining oil or gas,
- (c) for the purpose of obtaining water to inject into an underground formation,
- (d) for the purpose of injecting gas, air, water or other substance into an underground formation, or
- (e) for any purpose, if made through sedimentary rocks to a depth of at least one hundred and fifty metres.

R.S.C. 1985, c. 36 (2nd Supp.), s. 118;

S.C. 1992, c. 35, s. 3;

S.C. 1994, c. 41, s. 37.

APPLICATION

Application

3. This Act applies in respect of the exploration and drilling for and the production, conservation, processing and transportation of oil and gas in

(a) the Yukon Territory or the Northwest Territories or Sable Island; or

(b) those submarine areas not within a province, adjacent to the coast of Canada and extending throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater.

PROHIBITION

Prohibition

4. No person shall carry on any work or activity related to the exploration or drilling for or the production, conservation, processing or transportation of oil or gas in any area to which this Act applies unless

(a) that person is the holder of an operating licence issued under paragraph 5(1)(a);

(b) that person is the holder of an authorization issued, before the commencement of operations, under paragraph 5(1)(b) for each such work or activity; and

(c) where it is required, that person is authorized or entitled to carry on business in the place where that person proposes to carry on the work or activity.

R.S.C. 1985, c. 36 (2nd Supp.), s. 119;

S.C. 1992, c. 35, s. 6.

PART I

REGULATION OF OPERATIONS

*Regulations**Regulatory power of Governor in Council*

14. (1) The Governor in Council may, for the purposes of safety and the protection of the environment as well as for the production and conservation of oil and gas resources, make regulations

(b) concerning the exploration and drilling for, and the production, processing and transportation of, oil or gas in any area to which this Act applies and

works and activities related to such exploration, drilling, production, processing and transportation;

(c) authorizing the National Energy Board, or any person, to make such orders as may be specified in the regulations and to exercise such powers and perform such duties as may be necessary for

- (i) the management and control of oil and gas production,
- (ii) prescribing anything that is required to be prescribed for the purposes of this Act.

R.S.C. 1985, c. 36 (2nd Supp.), s. 122;

S.C. 1992, c. 35, s. 14;

S.C. 1994, c. 10, s. 7.

Publication of proposed regulations

15. (1) Subject to subsection (2), a copy of each regulation that the Governor in Council proposes to make under this Act shall be published in the *Canada Gazette* and a reasonable opportunity shall be afforded to interested persons to make representations to the Minister with respect thereto.

Single publication required

(2) No proposed regulation need be published more than once under subsection (1) whether or not it is altered or amended after that publication as a result of representations made by interested persons as provided in that subsection.

PART II

PRODUCTION ARRANGEMENTS

Interpretation

Definitions

29. In this Part,

"pooled tract"

"pooled tract" means the portion of a pooled spacing unit defined as a tract in a pooling agreement or a pooling order;

"pooling agreement"

"pooling agreement" means an agreement to pool the interests of owners in a spacing unit and to provide for the operation or the drilling and operation of a well thereon;

"pooling order"

"pooling order" means an order made under section 31 or as altered pursuant to section 35;

"royalty interest"

"royalty interest" means any interest in, or the right to receive a portion of, any oil or gas produced and saved from a field or pool or part of a field or pool or the

proceeds from the sale thereof, but does not include a working interest or the interest of any person whose sole interest is as a purchaser of oil or gas from the pool or part thereof;

"royalty owner"

"royalty owner" means a person, including Her Majesty in right of Canada, who owns a royalty interest;

"spacing unit"

"spacing unit" means the area allocated to a well for the purpose of drilling for or producing oil or gas;

"unit agreement"

"unit agreement" means an agreement to unitize the interests of owners in a pool or a part of a pool exceeding in area a spacing unit, or such an agreement as varied by a unitization order;

"unit area"

"unit area" means the area that is subject to a unit agreement;

"unit operating agreement"

"unit operating agreement" means an agreement, providing for the management and operation of a unit area and a unitized zone, that is entered into by working interest owners who are parties to a unit agreement with respect to that unit area and unitized zone, and includes a unit operating agreement as varied by a unitization order;

"unit operator"

"unit operator" means a person designated as a unit operator under a unit operating agreement;

"unit tract"

"unit tract" means the portion of a unit area that is defined as a tract in a unit agreement;

"unitization order"

"unitization order" means an order of the Committee made under section 41;

"unitized zone"

"unitized zone" means a geological formation that is within a unit area and subject to a unit agreement;

"working interest"

"working interest" means a right, in whole or in part, to produce and dispose of oil or gas from a pool or part of a pool, whether that right is held as an incident of ownership of an estate in fee simple in the oil or gas or under a lease, agreement or other instrument, if the right is chargeable with and the holder thereof is obligated to pay or bear, either in cash or out of production, all or a portion of the costs in connection with the drilling for, recovery and disposal of oil or gas from the pool or part thereof;

"working interest owner"

"working interest owner" means a person who owns a working interest.

*Pooling**Voluntary pooling*

30. (1) Where one or more working interest owners have leases or separately owned working interests within a spacing unit, the working interest owners and the royalty owners who own all of the interests in the spacing unit may pool their working interests and royalty interests in the spacing unit for the purpose of drilling for or producing, or both drilling for and producing, oil and gas if a copy of the pooling agreement and any amendment thereto has been filed with the Chief Conservation Officer.

Pooling agreement by Her Majesty

(2) The Minister may, on behalf of Her Majesty, enter into a pooling agreement on such terms and conditions as the Minister deems advisable and, notwithstanding anything in this Act, the *Territorial Lands Act*, the *Federal Real Property Act*, the *Canada Petroleum Resources Act* or any regulations made under those Acts, the pooling agreement is binding on Her Majesty.

R.S.C. 1985, c. 36 (2nd Supp.), s. 124;
S.C. 1991, c. 50, s. 35.

Application for pooling order

31. (1) In the absence of a pooling agreement, a working interest owner in a spacing unit may apply for a pooling order directing the working interest owners and royalty owners within the spacing unit to pool their interests in the spacing unit for the purpose of drilling for and producing, or producing, oil or gas or both from the spacing unit.

Contents of pooling order

32. Every pooling order shall provide

- (a) for the drilling and operation of a well on the spacing unit or, where a well that is capable of or that can be made capable of production has been drilled on the spacing unit before the making of the pooling order, for the future production and operation of that well;
- (b) for the appointment of a working interest owner as operator to be responsible for the drilling, operation or abandoning of the well whether drilled before or after the making of the pooling order;
- (c) for the allocation to each pooled tract of its share of the production of the oil or gas from the pooled spacing unit that is not required, consumed or lost in the operation of the well, which allocation shall be on a prorated area basis unless it can be shown to the satisfaction of the Committee that basis is unfair, whereupon the

Committee may make an allocation on another more equitable basis;

*Unitization**Unit operation*

37. (1) Any one or more working interest owners in a pool or part of a pool exceeding in area a spacing unit, together with the royalty owners, may enter into a unit agreement and operate their interests pursuant to the terms of the unit agreement or any amendment thereto if a copy of the agreement and any amendment has been filed with the Chief Conservation Officer.

Minister may enter into unit agreement

(2) The Minister may enter into a unit agreement binding on Her Majesty, on such terms and conditions as the Minister may deem advisable, and such of the regulations under this Act, the *Territorial Lands Act*, the *Federal Real Property Act* or the *Canada Petroleum Resources Act* as may be in conflict with the terms and conditions of the unit agreement stand varied or suspended to the extent necessary to give full effect to the terms and conditions of the unit agreement.

Unit operator's relationship to parties

(3) Where a unit agreement filed under this section provides that a unit operator shall be the agent of the parties thereto with respect to their powers and responsibilities under this Act, the performance or non-performance thereof by the unit operator shall be deemed to be the performance or non-performance by the parties otherwise having those powers and responsibilities under this Act.

R.S.C. 1985, c. 36 (2nd Supp.), s. 125;
S.C. 1991, c. 50, s. 36.

*Compulsory Unitization**Who may apply for unitization order*

39. (1) One or more working interest owners who are parties to a unit agreement and a unit operating agreement and own in the aggregate sixty-five per cent or more of the working interests in a unit area may apply for a unitization order with respect to the agreements.

Application for unitization order

(2) An application under subsection (1) shall be made to the Minister who shall refer the application to the Committee for the purpose of holding a hearing thereon in accordance with section 41.

Application by proposed unit operator

(3) An application under subsection (1) may be made by the unit operator or proposed unit operator on behalf of the working interest owners referred to in that subsection.

Contents of unitization application

40. (1) An application for a unitization order shall contain

- (a) a plan showing the unit area that the applicant desires to be made subject to the order;

Details required of unit agreement

(2) The unit agreement referred to in subsection (1) shall include

- (a) a description of the unit area and the unit tracts included in the agreement;

PART III**APPLICATION***Application*

72.1 This Act applies to every interest or right in oil or gas acquired or vested before the coming into force of this section.

added, R.S.C. 1985, c. 36 (2nd Supp.), s. 128.

HER MAJESTY*Binding on Her Majesty*

73. This Act is binding on Her Majesty in right of Canada or a province.

The above excerpts of the *Canada Oil and Gas Operations Act* are from chapter O-7 of the *Revised Statutes of Canada, 1985*, as amended by:

- R.S.C. 1985, c. 27 (1st Supp.), s. 203; RA 20.06.85; CIF 04.12.85 (SI/85-211).
- R.S.C. 1985, c. 36 (2nd Supp.), ss. 118 to 128; RA 18.11.86; CIF 15.02.87 (SI/87-63).
- R.S.C. 1985, c. 6 (3rd Supp.), s. 92; RA 26.03.87; CIF 24.04.89 (SI/89-106).
- S.C. 1989, c. 3, s. 46; RA 29.06.89; CIF 29.03.90 (SI/90-63).
- S.C. 1991, c. 50, ss. 35 & 36; RA 17.12.91; CIF 15.09.92 (SI/92-151).
- S.C. 1992, c. 35, ss. 1 to 33; RA 23.06.92; CIF 01.09.92 (SI/92-154).
- S.C. 1994, c. 10, ss. 1 to 15; RA 12.05.94.
- S.C. 1994, c. 41, ss. 37, 38; RA 15.12.94; CIF 12.01.95 (SI/95-10).
- S.C. 1994, c. 43, s. 90; RA 15.12.94; CIF 14.02.95 (SI/95-19).

Canada Petroleum Resources Act

An Act to regulate interests in petroleum in relation to frontier lands,
to amend the Oil and Gas Production and Conservation Act and
to repeal the Canada Oil and Gas Act

Excerpts from
Chapter 36 (2nd Supp.), R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Canada Petroleum Resources Act*.

INTERPRETATION

Definitions

2. In this Act,

"commercial discovery"

"commercial discovery" means a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;

"commercial discovery area"

"commercial discovery area" means, in relation to a declaration of commercial discovery made pursuant to subsection 35(1) or (2), those frontier lands described in the declaration;

"Crown reserve lands"

"Crown reserve lands" means frontier lands in respect of which no interest is in force;

"former exploration agreement"

"former exploration agreement" means an exploration agreement under the *Canada Oil and Gas Land Regulations*;

"former lease"

"former lease" means an oil and gas lease under the *Canada Oil and Gas Land Regulations*;

"former permit"

"former permit" means an exploratory permit under the *Canada Oil and Gas Land Regulations*;

"former special renewal permit"

"former special renewal permit" means a special renewal permit under the *Canada Oil and Gas Land Regulations*;

"frontier lands"

"frontier lands" means lands that belong to Her Majesty in right of Canada, or in respect of which Her Majesty

in right of Canada has the right to dispose of or exploit the natural resources, and that are situated in

(a) the Yukon Territory, the Northwest Territories or Sable Island, or

(b) those submarine areas, not within a province, adjacent to the coast of Canada and extending throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater;

"gas"

"gas" means natural gas and includes all substances, other than oil, that are produced in association with natural gas;

"holder" or "interest holder"

"holder" or "interest holder" means, in respect of an interest or a share therein, the person indicated, in the register maintained pursuant to Part VIII, as the holder of the interest or the share;

"interest"

"interest" means any former exploration agreement, former lease, former permit, former special renewal permit, exploration licence, production licence or significant discovery licence;

"interest owner"

"interest owner" means the interest holder who holds an interest or the group of interest holders who hold all of the shares in an interest;

"Minister"

"Minister" means

(a) in relation to any lands in respect of which the Minister of Natural Resources has administrative responsibility for the natural resources therein, the Minister of Natural Resources, and

(b) in relation to any lands in respect of which the Minister of Indian Affairs and Northern Development has administrative responsibility for

the natural resources therein, the Minister of Indian Affairs and Northern Development;

"oil"

"oil" means

- (a) crude oil, regardless of gravity, produced at a well head in liquid form, and
- (b) any other hydrocarbons, except coal and gas, and, without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale or from any other types of deposits on the surface or subsurface or the seabed or its subsoil of any frontier lands;

"petroleum"

"petroleum" means oil or gas;

"prescribed"

"prescribed" means

- (a) in the case of a form or the information to be given on a form, prescribed by the Minister, and
- (b) in any other case, prescribed by regulations made by the Governor in Council;

"share"

"share" means, with respect to an interest, an undivided share in the interest or a share the interest held in accordance with section 23;

"significant discovery"

"significant discovery" means a discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production;

"significant discovery area"

"significant discovery area" means, in relation to a declaration of significant discovery made pursuant to subsection 28(1) or (2), those frontier lands described in the declaration.

S.C. 1994, c. 41, s. 13.

Aboriginal rights

3. Nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

PART I

GENERAL

Application of Act

Application

5. This Act applies to all frontier lands.

NOTE

By Order-in-Council, this Act was proclaimed into force on only part of the frontier lands. See explanatory note at the end of the excerpts for this Act.

Her Majesty

Binding on Her Majesty

6. This Act is binding on Her Majesty in right of Canada or a province.

Designations and Appointments

Delegation

7. The Minister may designate any person to exercise the powers and perform the duties and functions under this Act that are specified in the designation and on that designation that person may exercise those powers and shall perform those duties and functions subject to such terms and conditions, if any, as are specified in the designation.

Advisory bodies

8. (1) The Minister may from time to time appoint and fix the terms of reference of such advisory bodies as the Minister considers appropriate to advise the Minister with respect to such matters relating to the administration or operation of this Act or the *Canada Oil and Gas Operations Act* as are referred to them by the Minister.

S.C. 1992, c. 35, s. 34.

General Rules Respecting Interests

No issuance of interests in respect of certain lands

10. (1) The Governor in Council may, by order, for such purposes and under such conditions as may be set out in the order, prohibit the issuance of interests in respect of such in frontier lands as are specified in the order.

Presumption

(2) Where any frontier lands are, pursuant to the *Territorial Lands Act*, withdrawn from disposition or set apart and appropriated for, any purposes and under any conditions, the issuance of interests in relation to such lands is deemed to be prohibited pursuant to subsection (1) for those purposes and under those conditions.

Surrender of interests

11. (1) An interest owner may, in the manner prescribed and subject to any requirements that may be prescribed respecting the minimum geographical area to which an interest may relate, surrender an interest in respect of all or any portion of the frontier lands subject to the interest.

Orders to prohibit activities in certain circumstances

12. (1) The Governor in Council may, in the case of

- (a) a disagreement with any government concerning the location of an international boundary,
- (b) an environmental or social problem of a serious nature, or
- (c) dangerous or extreme weather conditions affecting the health or safety of people or the safety of equipment,

by order, prohibit any interest owner specified in the order from commencing or continuing any work or activity on the frontier lands or any portion thereof that are subject to the interest of that interest owner.

PART II**GENERAL RULES RELATING TO
ISSUANCE OF INTERESTS***Authority to Issue Interests**Authority to issue interests*

13. (1) The Minister may issue interests in respect of any frontier lands in accordance with this Act and the regulations.

Application of interest may be limited

(2) Subject to subsection (3), the application of any interest may be restricted to such geological formations and to such substances as may be specified in the interest.

Non-retrospective effect of subsection (2)

(3) Subsection (2) does not apply to any interest

(a) that is in force or in respect of which negotiations were completed before or on the coming into force of this section in relation to any frontier lands; or

(b) that immediately succeeds an interest referred to in paragraph (a) in relation to those lands where those lands were not Crown reserve lands on the expiration of the interest referred to in paragraph (a).

*Issuance of Interests in Relation to Crown Reserve Lands**Call for bids*

14. (1) Subject to section 17, the Minister shall not issue an interest in relation to Crown reserve lands unless

- (a) prior thereto, the Minister has made a call for bids in relation to those Crown reserve lands by publishing a notice in accordance with this section and section 19; and
- (b) the interest is issued to the person who submitted, in response to the call, the bid selected by the Minister in accordance with subsection 15(1).

Exception to call for bids

17. (1) The Minister may issue an interest, in relation to any Crown reserve lands, without making a call for bids where

- (a) the frontier lands to which the interest is to apply have, through error or inadvertence, become Crown reserve lands and the interest owner who last held an interest in relation to such lands has, within one year after the time they so became Crown reserve lands, requested the Minister to issue an interest; or
- (b) the Minister is issuing the interest to an interest owner in exchange for the surrender by the interest owner, at the request of the Minister, of any other interest or a share in any other interest, in relation to all or any portion of the frontier lands subject to that other interest.

PART III**EXPLORATION***Exploration Licences**Rights under exploration licences*

22. An exploration licence confers, with respect to the frontier lands to which the licence applies,

- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
- (b) the exclusive right to develop those frontier lands in order to produce petroleum; and
- (c) the exclusive right, subject to compliance with the other provisions of this Act, to obtain a production licence.

Shares

23. A share in an exploration licence may, subject to any requirements that may be prescribed, be held with respect to a portion only of any frontier lands subject to the exploration licence.

Terms and conditions

24. (1) An exploration licence shall contain such terms and conditions as may be prescribed and may contain any other terms and conditions, not inconsistent with this Act or the regulations, as may be agreed on by the Minister and the interest owner of the licence.

Regulations

(2) The Governor in Council may make regulations prescribing terms and conditions required to be included in exploration licences issued in relation to all frontier lands or any portion thereof.

Amendment of exploration licence

25. (1) The Minister and the interest owner of an exploration licence may, by agreement, amend any provision of the exploration licence in any manner not inconsistent with this Act or the regulations and, without limiting the generality of the foregoing, may, subject to subsection (2), amend the licence to include any other frontier lands.

Exception

(2) The Minister shall not amend an exploration licence to include frontier lands that, immediately prior to the inclusion, were Crown reserve lands unless the Minister would be able to issue an interest to that interest owner in relation to those lands under subsection 17(1) and a notice has been published in accordance with section 19 not later than ninety days

before making the amendment, setting out the terms and conditions of the amendment.

Consolidation of exploration licences

(3) The Minister may, on the application of the interest owners of two or more exploration licences, consolidate those exploration licences into a single exploration licence, subject to any terms and conditions that may be agreed on by the Minister and those interest owners.

Effective date of exploration licence

26. (1) The effective date of an exploration licence is the date specified in the licence as the effective date thereof.

Non-renewable term of nine years

(2) Subject to subsection (3) and section 27, the term of an exploration licence shall not, exceed nine years from the effective date of the licence and shall not be extended or renewed.

Crown reserve lands on expiration of licence

(6) On the expiration of an exploration licence, any frontier lands to which the exploration licence related and that are not subject to a production licence or a significant discovery licence become Crown reserve lands.

Continuation of exploration licence where drilling commenced

27. (1) Where, prior to the expiration of the term of an exploration licence, the drilling of any well has been commenced on any frontier lands to which the exploration licence applies, the exploration licence continues in force while the drilling of that well is being pursued diligently and for so long thereafter as may be necessary to determine the existence of a significant discovery based on the results of that well.

*Significant Discoveries**Application for declaration of significant discovery*

28. (1) Where a significant discovery has been made on any frontier lands that are subject to an interest or a share therein held in accordance with section 23, the National Energy Board shall, on the application of the interest holder of the interest or the share made in the form and manner and containing such information as may be prescribed, make a written declaration of significant discovery in relation to those frontier lands in respect of which there are reasonable grounds to believe that the significant discovery may extend.

Declaration on initiative of Minister

(2) Where a significant discovery has been made on any frontier lands, the National Energy Board may, by order, make a declaration of significant discovery in relation to those frontier lands in respect of which there are reasonable grounds to believe the significant discovery may extend.

Description of frontier lands subject to declaration

(3) A declaration made pursuant to subsection (1) or (2) shall describe the frontier lands to which the declaration applies.

Amendment or revocation of declaration

(4) Subject to subsection (5), where a declaration of significant discovery is made pursuant to subsection (1) or (2) and, based on the results of further drilling, there are reasonable grounds to believe that a discovery is not a significant discovery or that the frontier lands to which the significant discovery extends differ from the significant discovery area, the National Energy Board may, as appropriate in the circumstances,

- (a) amend the declaration of significant discovery by increasing or decreasing the significant discovery area; or
- (b) revoke the declaration.

Idem

(5) A declaration of significant discovery shall not be amended to decrease the significant discovery area of revoked earlier than

- (a) in the case of a significant discovery area that is subject to a significant discovery licence issued pursuant to subsection 30(1), the date on which the exploration licence referred to in that subsection expires; and
- (b) in the case of a significant discovery area that is subject to a significant discovery licence issued pursuant to subsection 30(2), three years after the effective date of the significant discovery licence.

S.C. 1994, c. 10, s. 16.

*Significant Discovery Licences**Rights under significant discovery licence*

29. A significant discovery licence confers, with respect to the frontier lands to which the licence applies,

- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
- (b) the exclusive right to develop those frontier lands in order to produce petroleum; and

- (c) the exclusive right, subject to compliance with the other provisions of this Act, to obtain a production licence.

Significant discovery licence in relation to lands subject to exploration licences

30. (1) Where a declaration of significant discovery is in force and all or a portion of the significant discovery area is subject to an exploration licence or a share therein held in accordance with section 23, the Minister shall, on the application of the interest holder of the exploration licence or the share made in the form and manner and containing such information as may be prescribed, issue to the interest holder a significant discovery licence in respect of all portions of the significant discovery area that are subject to the exploration licence or the share.

Significant discovery licence in relation to Crown reserve lands

(2) Where a declaration of significant discovery is in force and the significant discovery area extends to Crown reserve lands, the Minister may, after making a call for bids in relation to those Crown reserve lands or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection 15(1), issue a significant discovery licence to the person who submitted that bid in relation to the Crown reserve lands specified in the call.

Terms and conditions of significant discovery licence

(3) A significant discovery licence shall be in the form prescribed and may contain any other terms and conditions, not inconsistent with this Act or the regulations, as may be agreed on by the Minister and the interest owner of the significant discovery licence.

Reduction of lands subject to significant discovery licence

31. (1) Where a significant discovery area in relation to a declaration of significant discovery is decreased pursuant to an amendment made under subsection 28(4), any significant discovery licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the frontier lands subject to that licence.

Increase in lands subject to significant discovery licence

(2) Where a significant discovery area in relation to a declaration of significant discovery is increased pursuant to an amendment made under subsection 28(4), any significant discovery licence that was issued on the basis of that declaration shall be amended to include all portions of the amended significant discovery area that are subject to any exploration licence held by the interest owner of that significant

discovery licence at the time the significant discovery area is so increased.

Exploration licence ceases to have effect

32. (1) On the issuance of a significant discovery licence pursuant to subsection 30(1) with respect to a significant discovery area, any exploration licence ceases to have effect in relation to that significant discovery area.

Effective date of significant discovery licence

(2) The effective date of a significant discovery licence is the date of application for the licence.

Term of significant discovery licence

(3) Subject to subsection 42(1), a significant discovery licence continues in force, in relation to each portion of the frontier lands to which the licence applies, during such period as the declaration of significant discovery on the basis of which the licence was issued remains in force in relation to that portion.

Crown reserve lands on expiration of licence

(4) On the expiration of a significant discovery licence, any frontier lands to which the significant discovery licence related and that are not subject to a production licence become Crown reserve lands.

PART IV

PRODUCTION

Commercial Discoveries

Application for declaration of commercial discovery

35. (1) Where a commercial discovery has been made on any frontier lands that are subject to an interest or a share therein held in accordance with section 23, the National Energy Board shall, on the application of the interest holder of the interest or the share, made in the form and manner and containing such information as may be prescribed, make a written declaration of commercial discovery in relation to those frontier lands in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

Declaration on initiative of Minister

(2) Where a commercial discovery has been made on any frontier lands, the National Energy Board may, by order, make a declaration of commercial discovery in relation to those frontier lands in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

S.C. 1994, c. 10, s. 17.

Issuance of Production Licences

Rights under production licence

37. (1) A production licence confers, with respect to the frontier lands to which the licence applies,

- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
- (b) the exclusive right to develop those frontier lands in order to produce petroleum;
- (c) the exclusive right to produce petroleum from those frontier lands; and
- (d) title to the petroleum so produced.

Exception

(2) Notwithstanding subsection (1), the Minister may, subject to such terms and conditions as the Minister deems appropriate, authorize any interest holder of an interest or a share therein to produce petroleum on the frontier lands subject to the interest or share for use in the exploration or drilling for or development of petroleum on any frontier lands.

Issuance of production licence

38. (1) Subject to sections 44 and 46, the Minister, on application made in the form and manner and containing such information as may be prescribed,

- (a) shall issue a production licence to one interest owner, in respect of any one commercial discovery area or portion thereof that is subject to an exploration licence or a significant discovery licence held by that interest owner; and
- (b) may, subject to such terms and conditions as may be agreed on by the Minister and the relevant interest owners, issue a production licence to
 - (i) one interest owner, in respect of two or more commercial discovery areas or portions thereof that are subject to an exploration licence or a significant discovery licence held by that interest owner, or
 - (ii) two or more interest owners, in respect of one or more commercial discovery areas or portions thereof that are subject to an exploration licence or a significant discovery licence held by any of those interest owners.

Production licence in relation to Crown reserve lands

(2) Where a declaration of commercial discovery is in force and the commercial discovery area extends to Crown reserve lands, the Minister may, after making a call for bids in relation to those Crown reserve lands or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection 15(1), issue a production licence to the person who

submitted that bid in relation to the Crown reserve lands specified in the call.

S.C. 1993, c. 47, s. 1.

Term of production licence

41. (1) Subject to subsections (2) to (4), a production licence is effective from the date it is issued and shall be issued for a term of twenty-five years.

Lapsing of other interests

42. (1) On the issuance of a production licence, any interest in relation to the frontier lands in respect of which the production licence is issued held immediately prior to the issuance of the production licence ceases to have effect in relation to those frontier lands, but otherwise continues to have effect according to its terms and the provisions of this Act.

Lands become Crown reserve lands on expiration of term

(2) On the expiration of a production licence, the frontier lands in relation to which the production licence was issued become Crown reserve lands.

PART VIII

TRANSFERS, ASSIGNMENTS AND REGISTRATION

Interpretation

Definitions

84. (1) In this Part,

"assignment of security interest"

"assignment of security interest" means a notice of the assignment of a security interest or any part thereof in respect of which a security notice has been registered under this Part;

"court"

"court" means, with respect to any frontier lands or any portion thereof, such superior court as may be prescribed and includes a judge thereof;

"Deputy Registrar"

"Deputy Registrar" means

- (a) in relation to any area in respect of which the Minister of Natural Resources has administrative responsibility for the natural resources therein, such person as that Minister may designate, and
- (b) in relation to any area in respect of which the Minister of Indian Affairs and Northern Development has administrative responsibility for the natural resources therein, such person as that Minister may designate;

"discharge"

"discharge" means a notice of the discharge of a security notice or postponement and includes a partial discharge;

"instrument"

"instrument" means a discharge, postponement, security notice, transfer or an assignment of a security interest;

"operator's lien"

"operator's lien" means any charge on or right in relation to an interest or a share in an interest

- (a) that arises under a contract
 - (i) to which the interest owner or holder of the interest or share is a party,
 - (ii) that provides for the operator appointed thereunder to carry out any work or activity related to the exploration for or the development or production of petroleum in the frontier lands to which the interest or share applies, and
 - (iii) that requires the interest owner or holder to make payments to the operator to cover all or part of the advances made by the operator in respect of the costs and expenses of such work or activity, and
- (b) that secures the payments referred in subparagraph (a)(iii);

"postponement"

"postponement" means a document evidencing the postponement of a security notice or operator's lien;

"Registrar"

"Registrar" means

- (a) in relation to any area in respect of which the Minister of Natural Resources has administrative responsibility for the natural resources therein, such person as that Minister may designate, and
- (b) in relation to any area in respect of which the Minister of Indian Affairs and Northern Development has administrative responsibility for the natural resources therein, such person as that Minister may designate;

"secured party"

"secured party" means the person claiming a security interest under a security notice;

"security interest"

"security interest" means any charge on or right in relation to an interest or a share in an interest that secures

- (a) the payment of an indebtedness arising from an existing or future loan or advance of money,
- (b) a bond, debenture or other security of a corporation, or

(c) the performance of the obligations of a guarantor under a guarantee given in respect of all or any part of an indebtedness referred to in paragraph (a) or all or any part of a bond, debenture or other security of a corporation,

and includes a security given under section 426 of the *Bank Act*, but does not include an operator's lien;

"security notice"

"security notice" means a notice of a security interest;

"transfer"

"transfer" means a transfer of an interest or a share in an interest.

Assignees deemed secured parties

(2) Where an assignment of security interest is registered under this Part, a reference in this Part to a secured party shall, in respect of the security notice to which the assignment of security interest relates, be read as a reference to the assignee named in the assignment of security interest.

R.S.C. 1985, c. 21(4th Supp.), s. 3;

S.C. 1991, c. 46, s. 587.

S.C. 1994, c. 41, s. 17.

Transfer and Assignment

Notice of disposition of any interest

85. Where an interest holder of an interest or any share therein enters into an agreement or arrangement that is or may result in a transfer, assignment or other disposition of the interest or any share therein, the interest holder shall give notice of the agreement or arrangement to the Minister, together with a copy of the agreement or arrangement or, if the Minister approves, a summary of its terms and conditions or, on the request of the Minister, a copy of the agreement or arrangement.

Registration

Establishment of register

87. (1) A public register of all interests and instruments registered under this Part shall be established and maintained in accordance with this Part and the regulations.

Duties of Registrar and Deputy Registrar

(2) The Registrar and Deputy Registrar shall exercise such powers and perform such duties and functions in respect of the register and the system of registration established under this Part as may be prescribed.

Prohibition against registration of documents except instruments

88. (1) No document other than an interest or instrument may be registered under this Part.

Requirements of registration

(2) No instrument may be registered under this Part unless it has been submitted for registration in the form prescribed for that instrument, in such manner and containing such information as may be prescribed, and meets any other requirement for the registration thereof prescribed by this Act and the regulations.

Registration

92. (1) Every document submitted for registration under this Part shall be examined by the Registrar and where the Registrar determines that the document is an instrument that meets all the requirements for the registration thereof prescribed by this Act and the regulations, the Registrar shall register the instrument in accordance with this Act and the regulations.

Refusal to register

(2) Where the Registrar refuses to register any document under this Part, the Registrar shall return the document to the person submitting the document for registration and provide that person with the reasons for the refusal.

Memorandum of registration

(3) An instrument is registered under this Part by the endorsement of a memorandum of registration on the instrument specifying the registration number of the instrument and the time and date of registration.

Chronological order of receipt for registration

(4) Instruments accepted for registration under this Part shall be registered in the chronological order in which such instruments are received by the Registrar.

Deemed notice

93. The registration of an instrument under this Part shall be deemed to constitute actual notice of the instrument to all persons as of the time of registration of the instrument and, in the case of a security notice, shall be deemed to constitute actual notice to all persons who may serve a demand for information under section 95 in respect of the security notice of the contents of the documents specified in the security notice.

Priority of rights

94. (1) Subject to subsections (2) and (5), any particular right, in relation to an interest or a share therein, in respect of which an instrument has been registered under this Part at any time has priority over and is valid against any other right, in relation to that interest or share,

(a) in respect of which an instrument may be registered under this Part,

(i) where the instrument was not so registered, or

(ii) where the instrument was so registered after that time,

whether that other right was acquired before or after that particular right; or

(b) in respect of which an instrument may not be registered under this Part, acquired after that time.

Transitional

(2) Where any right in respect of which an instrument may be registered under this Part was acquired before the coming into force of this Part and an instrument in respect of that right is registered under this Part not later than one hundred and eighty days after the coming into force of this Part, the priority and validity of that right shall be determined as though the instrument was registered under this Part at the time the right was acquired and as though this Part was in force at that time.

Transfer effective on registration

97. A transfer of an interest or a share therein is not effective against the Crown prior to the registration of the transfer.

No restriction on rights of Minister or Her Majesty

98. For greater certainty, the registration of an instrument

(a) does not restrict or in any manner affect any right or power of the Minister under this Act, the regulations or the terms of any interest; and

(b) does not derogate from any proprietary right or any right to dispose of or exploit natural resources that Her Majesty in right of Canada has in respect of frontier lands.

Regulations

100. The Governor in Council may make regulations for carrying out the purposes and provisions of this Part and, without restricting the generality of the foregoing, may make regulations

(a) prescribing the powers, duties and functions of the Registrar and Deputy Registrar for the purposes of this Part and the time when, and manner and circumstances in which, they are to be exercised, and providing for the designation by the Minister of any person or class of persons to exercise such powers and perform such duties and functions as may be specified in the regulations;

(b) governing the books, abstracts and indexes to be maintained as the register for the purposes of this Part and the particulars of interests, instruments and frontier lands and the orders and declarations made in relation to interests to be recorded therein;

(c) governing the filing of copies of interests, registered instruments and other documents in the register established under this Part;

(d) governing public access to and searches of the register;

(e) prescribing, for the purposes of this Part, courts having jurisdiction in respect of frontier lands or any portion thereof;

(f) governing the exclusive or concurrent jurisdiction of any court prescribed pursuant to paragraph (e);

(g) prescribing fees for the registration of instruments, making copies and certified copies of documents, searches and any other services specified in the regulations for the purposes of this Part, and requiring such fees to be paid for such services; and

(h) prescribing any other matter or thing that is by this Part to be prescribed.

PART IX**ADMINISTRATION AND
ENFORCEMENT***Cancellation of Rights***Notice to comply**

105. (1) Where the Minister has reason to believe that an interest owner or holder is failing or has failed to meet any requirement of or under this Act or the *Canada Oil and Gas Operations Act* or any regulation under either Act, the Minister may give notice to that interest owner or holder requiring compliance with the requirement within ninety days after the date of the notice or within such longer period as the Minister considers appropriate.

Default

(2) Notwithstanding anything in this Act, where an interest owner or holder fails to comply with a notice under subsection (1) within the period specified in the notice and the Minister considers that the failure to comply warrants cancellation of the interest of the interest owner or holder or any share in the interest held by the holder with respect to a portion only of the frontier lands subject to the interest, the Minister may, by order subject to section 106, cancel that interest or share, and where the interest or share is so cancelled, the frontier lands thereunder become Crown reserve lands.

S.C. 1992, c. 35, s. 42.

Regulations**Regulations**

107.(1) The Governor in Council may make regulations for carrying out the purposes and provisions of this Act and, without restricting the generality of the foregoing, may make regulations

(a) not inconsistent with the *Canada Lands Surveys Act* authorizing or requiring the survey, division and subdivision of frontier lands and defining and describing those divisions and subdivisions;

(b) prescribing the information and documentation to be provided by interest owners and interest holders for the purposes of this Act, the time when and manner in which such information and documentation is to be provided, authorizing the Minister to prescribe the form in which it is to be provided and requiring such information and documentation to be provided in accordance with the regulations;

(c) requiring fees and deposits to be paid in respect of interests, prescribing the amounts of such fees and deposits, the time and manner of their payment and providing for the administration of such fees and deposits and the disposition and return of deposits; and

(d) prescribing any other matter or things that by this Act is to be prescribed or that is to be done by regulations.

Publication of proposed regulations

(2) Subject to subsection (3), a copy of each regulation that the Governor in Council proposes to make under this Act shall be published in the *Canada Gazette* and a reasonable opportunity shall be afforded to interested persons to make representations to the Minister with respect thereto.

Single publication required

(3) No proposed regulation need be published more than once under subsection (2) whether or not it is altered or amended after such publication as a result of representations made by interested persons as provided in that subsection.

PART X**TRANSITIONAL, CONSEQUENTIAL
AND COMMENCEMENT****Transitional****Exploration agreements extant are continued**

110.(1) Where an exploration agreement was entered into or negotiations in respect thereof were completed under the *Canada Oil and Gas Act* before the coming into force of this section, that exploration agreement shall, for the purposes of this Act, be referred to as an exploration licence and shall, subject to this Act, have effect in accordance with its terms and conditions.

Production licences extant

(2) Where a production licence was granted under the *Canada Oil and Gas Act* and is in force on the coming into force of this section, it shall be deemed to be a production licence issued under this Act on the coming into force of this section and is subject to this Act.

Declarations of significant discovery continued

(3) Where a declaration of significant discovery was made under section 45 of the *Canada Oil and Gas Act* and is in force on the coming into force of this section, it continues in force as if it was made pursuant to section 28 of this Act.

Deemed significant discovery licences

(4) Where, on the coming into force of this section, an exploration agreement is continuing in force pursuant to subsection 17(4) of the *Canada Oil and Gas Act*, it shall be deemed to be a significant discovery licence issued under this Act on the coming into force of this section and is subject to this Act.

Replacement of rights

111.(1) Subject to section 110 and subsections 112(2) and 114(4) and (5), the interests provided for under this Act replace all petroleum rights or prospects thereof acquired or vested in relation to frontier lands prior to the coming into force of this section.

Regulations continue in force

112. (1) The *Canada Oil and Gas Land Regulations* remain in force to the extent that they are consistent with this Act until they are revoked or replaced by regulations made under this Act.

Former interests

(2) All interests provided by the *Canada Oil and Gas Land Regulations* that are in force on the coming into force of this section continue in force subject to sections 113 to 116.

S.C. 1991, c. 10, s. 19.

Former permits, former special renewal permits and former exploration agreements

113. (1) Subject to sections 115 and 116, the interest owner of a former permit, former special renewal permit or former exploration agreement shall, on or before the first anniversary date of any such interest following March 5, 1982 or on or before the day that is six months after that date, whichever is the later, negotiate an exploration licence with the Minister.

Surrender

(2) Where an interest owner referred to in subsection (1) does not comply with that subsection, the frontier lands under the relevant interest are deemed to be surrendered and become Crown reserve lands.

Former leases

114. (1) Subject to sections 115 and 116, the interest owner of a former lease, other than a lease referred to in subsection (4), shall, on or before the first anniversary date of the former lease following March 5, 1982 or on or before the day that is six months after that date, whichever is the later, negotiate an exploration licence with the Minister.

Surrender

(2) Where the interest owner referred to in subsection (1) does not comply with that subsection, the frontier lands under the former lease are deemed to be surrendered and become Crown reserve lands.

Exception

(4) Oil and Gas Leases numbered 529-R, 703, 704, 705, 707-R, 708-R, 709-R, 710-R, 838, 702, 411, 412, 442-R, 443-R and 444-R, issued pursuant to the *Canada Oil and Gas Land Regulations* shall continue in force in accordance with their terms and conditions.

Idem

(5) Notwithstanding any other provision of this Act, the Norman Wells Agreement of 1944 and the Norman Wells Expansion Agreement of 1983 shall continue in force in accordance with the terms and conditions of those Agreements, as amended by the Norman Wells Amending Agreement of 1994, and sections 1 to 117 shall not apply thereto.

S.C. 1994, c. 36, s. 1.

Crown share abrogated

117. (1) Subject to subsection (2), for greater certainty, the reservation to Her Majesty in right of Canada of a Crown share in any interest granted or entered into under the *Canada Oil and Gas Act* prior to the coming into force of this section is abrogated on and after the day this section comes into force.

Inuvialuit claims unaffected

(2) For greater certainty, nothing in this Act affects any right, privilege or benefit set out in the agreement approved, given effect and declared valid by the *Western Arctic (Inuvialuit) Claims Settlement Act*, chapter 24 of the Statutes of Canada, 1984.

Coming into Force

Canada Petroleum Resources Act
Chapter 36 (2nd Supp.), R.S.C. 1985; RA 18.11.86

- s. 116, CIF 05.03.82 (s. 131(2)).
- ss. 1 to 83, ss.101 to 115, and ss. 117 to 131, CIF 15.02.87 (SI/87-63) in respect of the frontier lands with exception of those portions of the frontier lands set out in the schedule of SI/87-63.
- ss. 1 to 83, ss.101 to 115, and ss. 117 to 131, CIF 01.12.87 (SI/87-244) in respect of the frontier lands set out in the schedule of SI/87-244.

- ss. 84 to 100, CIF 28.04.88 (SI/88-86)
in respect of the frontier lands, with the exception of that portion of the frontier lands known as the "offshore area" as defined in section 5 of the *Canada-Nova Scotia Oil and Gas Agreement Act* (S.C. 1984, c. 29).

EXPLANATORY NOTE

Section 5 of the *Canada Petroleum Resources Act* states that the Act applies to all frontier lands. Frontier lands are defined in section 2 of the Act. To date, the Act was proclaimed into force on certain frontier lands only. The Act applies to all frontier lands except:

- a) that portion of the frontier lands known as the "offshore area" as defined in section 5 of the *Canada-Nova Scotia Oil and Gas Agreement Act* (S.C. 1984, c. 29); and
- b) that portion of the frontier lands known as the offshore area, more particularly described as those submarine areas lying seaward of the low water mark of the Province of Newfoundland and extending, at any location, as far as the outer edge of the continental margin or a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater (except sections 84 to 100 which apply).

The above excerpts of the *Canada Petroleum Resources Act* are from chapter 36 (2nd Supp.) of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 21 (4th Supp.), ss. 3 & 4; RA 21.07.88; CIF 22.12.89 (SI/90-9).
- S.C. 1990, c. 8, s. 42; RA 29.03.90; CIF 01.02.92 (SI/92-6).
- S.C. 1990, c. 41, ss. 19 to 21; RA 06.11.90; CIF 09.11.90 (SI/90-169).
- S.C. 1991, c. 10, s. 19; RA 01.02.91.
- S.C. 1991, c. 46, s. 587; RA 13.12.91; CIF 01.06.92 (SI/92-90).
- S.C. 1992, c. 1, s. 144[Sch. VII, item 8]; RA 28.02.92.
- S.C. 1992, c. 35, ss. 34 to 43; RA 23.06.92; CIF 01.09.92 (SI/92-154).
- S.C. 1993, c. 34, s. 16; RA 23.06.93.
- S.C. 1993, c. 47, ss. 1 to 5; RA 23.06.93; CIF 30.06.93 (SI/93-149).
- S.C. 1994, c. 10, ss. 16 to 18; RA 12.05.94.
- S.C. 1994, c. 36; RA 24.11.94.
- S.C. 1994, c. 41, ss. 13 to 17; RA 15.12.94; CIF 12.01.95 (SI/95-10).

Canada Transportation Act

An Act to continue the National Transportation Agency as the Canadian Transportation Agency, to consolidate and revise the National Transportation Act, 1987 and the Railway Act and to amend or repeal other Acts as a consequence

Excerpts from
Chapter 10, S.C. 1996
As amended

SHORT TITLE

Short title
1. This Act may be cited as the Canada Transportation Act.

HER MAJESTY

Binding on Her Majesty
2. This act is binding on Her Majesty in right of Canada or a province.

APPLICATION

Application generally
3. This act applies in respect of transportation matters under the legislative authority of Parliament.

INTERPRETATION

Definitions
6. In this Act,
"Agency" means the Canadian Transportation Agency continued by subsection 7(1);
"Chairperson" means the Chairperson of the agency;
"Minister" means the Minister of Transport;

PART I

ADMINISTRATION

Canadian Transportation Agency
Continuation and Organization

Agency continued
7. (1) The agency known as the National Transportation Agency is continued as the Canadian Transportation Agency.

Head Office

Head Office
18. (1) The head office of the Agency shall be in the National Capital Region described in the schedule to the National Capital Act.

PART III

RAILWAY TRANSPORTATION

DIVISION I

INTERPRETATION AND APPLICATION

Definitions
87. In this Part,
"land" includes an interest in land and, in relation to land in the Province of Quebec, includes the interest of a lessee;
"railway" means a railway within the legislative authority of Parliament and includes

(a) branches, extensions, sidings, railway bridges, tunnels, stations, depots, wharfs, rolling stock, equipment, stores, or other things connected with the railway, and

(b) communications or signalling systems and related facilities and equipment used for railway purposes;

"railway company"

"railway company" means a person who holds a certificate of fitness under section 92, a partnership of such persons or a person who is mentioned in subsection 90(2);

"road"

"road" means any way or course, whether public or not, available for vehicular or pedestrian use;

Application

88. (1) This Part applies to all persons, railway companies and railways within the legislative authority of Parliament.

DIVISION II

CONSTRUCTION AND OPERATION OF RAILWAYS

General Powers of Railway Companies

Powers

95. (1) Subject to the provisions of this Part and any other Act of Parliament, a railway company may exercise the following powers for the purpose of constructing or operating its railway:

(c) make drains or conduits into, through or under land adjoining the railway for the purpose of conveying water from or to the railway;

Minimal Damage

(2) The railway company shall do as little damage as possible in the exercise of the powers.

Land Transfer

Land taken pursuant to section 134 of Railway Act

96. (1) Where a railway company took possession of, used or occupied land under section 134 of the *Railway Act* before the coming into force of section 185, the railway company may not alienate the land except to transfer it to a railway company for the purpose of continuing railway operations or to the Crown.

Alienation to other persons

(2) The land may be transferred to any other person for the purpose of continuing railway operations if

(a) in the case of land in Quebec, the transfer involves only a lease or a dismemberment of the right of ownership; or

(b) in the case of land in any other province, the transfer does not involve a transfer of the fee simple in the land.

Continuing application to subsequent transfers

(3) If land is transferred under subsection (1) or (2) to any person other than the Crown in right of Canada, subsequent transfers of the land are subject to the same limitations as those contained in this section.

Existing rights

(4) A transfer of land under this section does not affect any right or interest of a person, other than a railway company, that existed in the land immediately before the coming into force of section 185.

Land obtained for railway purposes

97. (1) Subject to section 96, a railway company that obtained land from the Crown or any other person to assist in the construction or operation of its railway may acquire or transfer the land.

DIVISION V

TRANSFERRING AND DISCONTINUING THE OPERATION OF RAILWAY LINES

Definition of "railway line"

140. (1) In this Division, "railway line" includes a portion of a railway line, but does not include

(a) a yard track, siding or spur; or

(b) other track auxiliary to a railway line.

Advertisement of availability of railway line for continued rail operations

143. (1) The railway company shall advertise the availability of the railway line, or any operating interest that the company has in it, for sale, lease or other transfer for continued operation and its intention to discontinue operating the line if it is not transferred.

Offer to governments

145. (1) The railway company shall offer to transfer all of its interest in the railway line to the governments mentioned in this section for not more than its net salvage value to be used for any purpose if

(a) no person makes their interest known to the railway company, or no agreement with an

interested person is reached, within the required time; or

(b) an agreement is reached within the required time, but the transfer is not completed in accordance with the agreement.

Which governments receive offer

(2) After the requirement to make the offer arises, the railway company shall send it simultaneously

(a) to the Minister if the railway line passes through

(i) more than one province or outside Canada,

(ii) land that is or was a reserve, as defined in subsection 2(1) of the *Indian Act*, or

(iii) land that is the subject of an agreement entered into by the railway company and the Minister for the settlement of aboriginal land claims;

(b) to the minister responsible for transportation matters in the government of each province that the railway line passes through; and

(c) to the clerk or other senior administrative officer of each municipal or district government through whose territory the railway line passes.

Time limits for acceptance

(3) After the offer is received

(a) by the Minister, the Government of Canada may accept it within thirty days;

(b) by a provincial minister, the government of the province may accept it within thirty days, unless the offer is received by the Minister, in which case the government of each province may accept it within an additional thirty days after the end of the period mentioned in paragraph (a) if it is not accepted under that paragraph; and

(c) by a municipal or district government, it may accept it within an additional thirty days after the end of the period or periods for acceptance under paragraph (a) and (b), if it is not accepted under those paragraphs.

Communication and notice of acceptance

(4) Once a government communicates its written acceptance of the offer to the railway company, the right of any other government to accept the offer is extinguished and the railway company shall notify the other governments of the acceptance.

Discontinuation

146. (1) Where a railway company has complied with the process set out in sections 143 to 145, but an agreement for the sale, lease or other transfer of the railway line or an interest therein is not entered into through that process, the railway company may discontinue operating the line on providing notice thereof to the Agency. Thereafter, the railway company has no obligations under this Act in respect of the operation of the railway line and has no obligations with respect to any operations by VIA Rail Canada Inc. over the railway line.

Coming into Force

Canada Transportation Act
S.C. 1996, c. 10; RA 29.05.96

CIF 01.07.96 ex. 142(2) (SI/96-53); s. 142(2) CIF 21.07.96 (SI/96-53)

The above excerpts of the *Canada Transportation Act* are from chapter 10 of the *Statutes of Canada, 1996* as amended by:

- S.C. 1996, c. 18, s. 41; RA 20.06.96; CIF 01.07.96 (s. 41 and SI/96-53).

Canada Wildlife Act
An Act respecting wildlife in Canada

Excerpts from
Chapter W-9, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Canada Wildlife Act*.

INTERPRETATION AND APPLICATION

Definitions

2. (1) In this Act,

"Minister"

"Minister" means the Minister of the Environment or, in respect of any matter related to the Northern Pipeline referred to in the *Northern Pipeline Act*, the member of the Queen's Privy Council for Canada designated as the Minister for the purposes of that Act;

"public lands"

"public lands" means lands belonging to Her Majesty in right of Canada and lands that the Government of Canada has power to dispose of, subject to the terms of any agreement between the Government of Canada and the government of the province in which the lands are situated, and includes

- (a) any waters on or flowing through the lands and the natural resources of the lands, and
- (b) the internal waters and the territorial sea of Canada;

Aboriginal and treaty rights

(3) For greater certainty, nothing in this act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

S.C. 1994, c. 23, s. 4.

HER MAJESTY

Binding on Her Majesty

2.1 This Act is binding on Her Majesty in right of Canada or a province.

added, S.C. 1994, c. 23, s. 5.

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER

Assignment of public lands

4. (1) Where the Governor in Council is satisfied that any public lands are required for wildlife research, conservation or interpretation, the Governor in Council may assign the administration of those lands to the Minister.

Powers of Minister on public lands assigned

(2) Where the administration of any public lands has been assigned to the Minister pursuant to subsection (1), the Minister may

- (b) provide advice relating to any wildlife research, conservation and interpretation being carried out on those lands;
- (c) subject to the regulations, carry out measures for the conservation of wildlife on those lands not inconsistent with any law respecting wildlife in the province in which the lands are situated; and
- (d) subject to the regulations, establish facilities or construct, maintain and operate works for wildlife research, conservation and interpretation on those lands.

S.C. 1991, c. 50, s. 47;

S.C. 1994, c. 23, s. 7.

ACQUISITION OF LANDS

Acquisition of lands

9. (1) The Governor in Council may authorize the Minister to purchase, acquire or lease any lands or interests therein for the purpose of research, conservation and interpretation in respect of

- (a) migratory birds; or
- (b) with the agreement of the government of the province having an interest therein, other wildlife.

Restrictions

(2) Lands or interests therein purchased or acquired pursuant to subsection (1) shall not be disposed of, and no person shall use or occupy the lands, except under the authority of this Act or the regulations.

Sale or lease of lands

(3) The Minister may authorize the sale, lease or other disposition of lands purchased or acquired pursuant to subsection (1) if, in the opinion of the Governor in Council, the sale, leasing or other disposition is compatible with wildlife research, conservation and interpretation.

GENERAL

Property acquired by gift or bequest

10. Where Her Majesty has acquired any money, securities or other property by gift, bequest or otherwise for any purpose relating to wildlife, the Minister shall expend, administer or dispose of the money, securities or other property subject to the terms, if any, on which the money, securities or other property was given, bequeathed or otherwise made available to Her Majesty.

Regulations

12. The Governor in Council may make regulations

- (a) prohibiting entry, generally or for any specified period or purpose, of any person on lands under the administration of the Minister or on any part of those lands;
- (d) for the preservation, control and management of lands purchased, acquired or leased pursuant to section 9;
- (e) specifying the use for any purpose of any lands purchased or acquired pursuant to section 9 if that use is compatible with wildlife research, conservation and interpretation;

S.C. 1991, c. 50, s. 48;

S.C. 1994, c. 23, s. 14.

The above excerpts of the *Canada Wildlife Act* are from chapter W-9 of the *Revised Statutes of Canada, 1985* as amended by:

- S.C. 1991, c. 50, ss. 47 & 48; RA 17.12.91; CIF 15.09.92 (SI/92-151);
- S.C. 1994, c. 23; RA 23.06.94.

Canadian Environmental Protection Act

An Act respecting the protection of the
environment and of human life and health

Excerpts from
Chapter 16 (4th Supp.), R.S.C. 1985
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Canadian Environmental Protection Act*.

INTERPRETATION*Definitions*

3. (1) In this Act,

"environment"

"environment" means the components of the Earth and includes

- (a) air, land and water,
- (b) all layers of the atmosphere,
- (c) all organic and inorganic matter and living organisms, and
- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c);

"Minister"

"Minister" means the Minister of the Environment;

"undertaking"

"undertaking" includes a business.

HER MAJESTY*Binding on Her Majesty*

4. This Act is binding on Her Majesty in right of Canada or a province.

PART IV

FEDERAL DEPARTMENTS, AGENCIES,
CROWN CORPORATIONS, WORKS, UNDERTAKINGS
AND LANDS

*Interpretation**Definitions*

52. In this Part,

"federal lands"

"federal lands" means

- (a) lands that belong to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the right to dispose of, and all waters on and airspace above those lands,
- (b) the following lands and areas, namely,
 - (i) the internal waters of Canada within the meaning of the *Territorial Sea and Fishing Zones Act*, including the seabed and subsoil below and the airspace above those waters,
 - (ii) the territorial sea of Canada as determined in accordance with the *Territorial Sea and Fishing Zones Act*, including the seabed and subsoil below and the airspace above that sea,
 - (iii) any fishing zone of Canada prescribed under the *Territorial Sea and Fishing Zones Act*,
 - (iv) any exclusive economic zone that may be created by Canada, and
 - (v) the continental shelf, consisting of the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the inner limits of the territorial sea, whichever is the greater, or that extend to such other limits as may be prescribed pursuant to an Act of Parliament, and

(c) reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and are subject to the *Indian Act*, and all waters on and airspace above those reserves or lands;

"federal works or undertakings"

"federal works or undertakings" means any work or undertaking that is within the legislative authority of Parliament, including, without restricting the generality of the foregoing,

(h) a work or undertaking that, although wholly situated within a province, is before or after its execution declared by Parliament to be for the general advantage of Canada or for the advantage of two or more of the provinces, and

(i) a work or undertaking outside the exclusive legislative authority of the legislatures of the provinces.

S.C. 1992, c. 37, s. 77.

Regulations

Absence of regulations

54. (1) Where no other Act of Parliament expressly provides for the making of regulations that result in the protection of the environment and apply to federal works or undertakings or federal lands, the Governor in Council may, on the recommendation of the Minister and with the concurrence of the minister of the Crown who has the administration and control of or duties and functions in relation to those works, undertakings or lands, make regulations applicable thereto for the protection of the environment.

Publication of proposed regulations

55. (1) The Minister shall publish in the *Canada Gazette* a copy of every regulation proposed to be made under section 54.

Plans and Specifications

Guidelines

Guidelines

53. For the purposes of carrying out the Minister's duties and functions related to the quality of the environment, the Minister may, with the approval of the Governor in Council, establish guidelines for use by departments, boards and agencies of the Government of Canada and, where appropriate, by corporations named in Schedule III to the *Financial Administration Act* and federal regulatory bodies in the exercise of their powers and the carrying out of their duties and functions.

Plans and specifications

56. For the purpose of section 54, the Minister may require from any person who carries on, or proposes to carry on, any federal work or undertaking, or any activity on federal lands, such plans, specifications, studies, procedures, schedules, analyses, samples or other information relating to the work, undertaking or activity, together with such analyses, samples, evaluations, studies or other information relating to the environment that is or is likely to be affected by the work, undertaking or activity as will enable the Minister to determine the environmental impact that the work, undertaking or activity will have.

Coming into Force

Canadian Environmental Protection Act

Chapter 16 (4th Supp.), R.S.C. 1985; RA 28.06.88

CIF 30.06.88 except ss. 26 to 30, 146 & 147(2) (SI/88-126);
ss. 26 to 30, & 147(2) CIF 01.07.94 (SI/94-40);

The above excerpts of the *Canadian Environmental Protection Act* are from chapter 16 (4th Supp.) of the *Revised Statutes of Canada, 1985* as amended by:

- S.C. 1989, c. 9; RA 29.06.89.
- S.C. 1992, c. 1, ss. 35-38, 143[Sch. VI, item 8] & 144[Sch. VII, item 11 to 21]; RA 28.02.92.
- S.C. 1992, c. 34, s. 45; RA 23.06.92.
- S.C. 1992, c. 37, s. 77; RA 23.06.92; CIF 19.01.95 (SI/95-11).

Canadian Laws Offshore Application Act

An Act to apply federal laws and provincial laws to offshore areas and to amend certain Acts in consequence thereof

Excerpts from
Chapter 44, S.C. 1990
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Canadian Laws Offshore Application Act*.

INTERPRETATION*Definitions*

2. (1) In this Act,

"artificial island"

"artificial island" means any man-made extension of the seabed or a seabed feature, whether or not the extension breaks the surface of the superjacent waters;

"continental shelf"

"continental shelf" means the seabed and subsoil of those submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the inner limits of the territorial sea, whichever is the greater, or that extend to such other limits as are prescribed pursuant to paragraph (2)(a);

"federal laws"

"federal laws" includes Acts of Parliament, regulations as defined in section 2 of the *Interpretation Act* and any other rules of law within the jurisdiction of Parliament but does not include ordinances within the meaning of the *Northwest Territories Act* or the *Yukon Act*;

"internal waters"

"internal waters" means the internal waters of Canada within the meaning of the *Territorial Sea and Fishing Zones Act*;

"marine installation or structure"

"marine installation or structure" includes

- (a) any ship, offshore drilling unit, production platform, subsea installation, pumping station, living accommodation, storage structure, loading or landing platform, dredge, floating crane, pipelaying

or other barge or pipeline and any anchor, anchor cable or rig pad used in connection therewith, and

- (b) any other work or work within a class of works prescribed pursuant to paragraph (2)(b);

"offshore area"

"offshore area", with respect to a province, means

- (a) any area of the sea that is not within any province, that is on the landward side of the outer limits of the continental shelf and that is nearer to the coast of that province than to the coast of any other province, or

- (b) such other area as is prescribed pursuant to paragraph (2)(c),

and includes the seabed and subsoil thereof;

"provincial laws"

"provincial laws", in respect of a province, includes the laws and rules of law from time to time in force in the province, other than federal laws, and the provisions of any instrument having effect under any of those laws;

"ship"

"ship" includes any description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation without regard to method or lack of propulsion;

"territorial sea"

"territorial sea" means the territorial sea of Canada as determined in accordance with the *Territorial Sea and Fishing Zones Act*.

Regulations

(2) The Governor in Council may make regulations

- (a) prescribing outer limits of the continental shelf or any portion thereof for the purpose of the definition "continental shelf" in subsection (1), or designating, for greater certainty, a particular area of the sea as being part of the continental shelf;
- (b) prescribing a work or a class of works for the purpose of the definition "marine installation or structure" in subsection (1);

(c) prescribing an area of the sea adjacent to a province for the purpose of the definition "offshore area" in subsection (1); and

(d) prescribing, in respect of any area of the sea and for the purpose of the definition "offshore area" in subsection (1), the manner of determining the province that has the coast nearest to that area.

DECLARATORY PROVISIONS

Rights of Her Majesty

3. (1) For greater certainty, it is hereby declared that in any area of the sea not within a province,

(a) the seabed and subsoil below the internal waters and territorial sea, and

(b) any rights of Canada beyond the territorial sea with respect to the seabed and subsoil and their resources

are vested in Her Majesty in right of Canada.

Saving

(2) Nothing in this section abrogates or derogates from any legal right or interest held prior to the coming into force of this Act.

Part of Canada and application of federal laws

4. For greater certainty, it is hereby declared that

(a) the internal waters and territorial sea form part of Canada;

(b) unless the context otherwise requires, a reference to the internal waters or the territorial sea includes a reference to the airspace above and the seabed and subsoil below those waters or that sea; and

(c) federal laws apply in the areas referred to in paragraphs (a) and (b) to the extent that such application is consistent with the intent and object of those laws.

APPLICATION OF FEDERAL LAWS

Application - continental shelf installations

5. (1) Subject to any regulations made pursuant to subsection (2) or (3), federal laws apply

(a) on or under any marine installation or, structure from the time it is attached or anchored to the continental shelf in connection with the exploration of that shelf or the exploitation of its mineral or other non-living resources until the

marine installation or structure is removed from the waters above the continental shelf

(b) on or under any artificial island constructed, erected or placed on the continental shelf; and

(c) within such safety zone surrounding any marine installation or structure or artificial island referred to in paragraph (a) or (b) as is determined by or pursuant to regulation.

Regulations

(2) The Governor in Council may make regulations

(a) excluding any federal laws or any provisions thereof from the application of subsection (1) in respect of any area in or above the continental shelf or in respect of any specified activity in any such area; and

(b) determining or prescribing the method of determining the safety zone referred to in paragraph (1)(c).

Application generally

(3) The Governor in Council may make regulations making federal laws or any provisions thereof applicable, in such circumstances as are specified in the regulations,

(a) in or above the continental shelf or any portion thereof;

(b) in any exclusive economic zone that may be created by Canada or in any portion thereof; or

(c) in any area beyond the continental shelf where such application is made pursuant to an international agreement or arrangement entered into by Canada.

Interpretation

6. For the purposes of section 5, federal laws shall be applied

(a) as if the places referred to in subsection 5(1) or in any regulations made pursuant to paragraph 5(2)(a) or subsection 5(3) formed part of the territory of Canada;

(b) notwithstanding that by their terms their application is limited to Canada; and

(c) in a manner that is consistent with the rights and freedoms of other states under international law and, in particular, with the rights and freedoms of other states in relation to navigation and overflight.

APPLICATION OF PROVINCIAL LAWS

Application of provincial laws

7. (1) Subject to this section and to any other Act of Parliament,

- (a) provincial laws apply in that part of the offshore area adjacent to a province that forms part of the internal waters or territorial sea; and
- (b) provincial laws apply to the same extent as federal laws apply pursuant to section 5 in that part of the offshore area adjacent to a province that is situated on the seaward side of the internal waters and territorial sea.

Limitation

(2) Subject to any regulations made pursuant to subsection (3) or (4), subsection (1) does not apply in respect of any provision of a provincial law that

- (a) imposes a tax or royalty; or
- (b) relates to mineral or other non-living natural resources.

Exclusion or application

(3) The Governor in Council may make regulations respecting the exclusion or application of provincial laws to the same extent as the Governor in Council may make regulations respecting the exclusion or application of federal laws pursuant to subsection 5(2) or (3).

Regulations

- (4) The Governor in Council may make regulations
 - (a) making any provincial law applicable in respect of any part of the offshore area adjacent to a province, even though the law, by its own terms, is applicable only in respect of a particular area within the province;
 - (b) restricting the application of subsection (1) to such provincial laws as are specified in the regulations;
 - (c) making subsection (1) applicable, on the terms and conditions, if any, specified in the regulations, in respect of any provincial laws that impose a tax or royalty or relate to mineral or other non-living natural resources; and
 - (d) excluding any provincial law from the application of subsection (1).

Restriction

(5) A regulation made under subsection (3) or (4) may be restricted to a specific area or place or to a specific provision of a provincial law.

Interpretation

(6) For the purposes of this section, provincial laws shall be applied as if the offshore area adjacent to the province were within the territory of that province.

Sums due to province

(7) Any sum due under a provincial law that applies in the offshore area pursuant to this section belongs to Her Majesty in right of the province whose legislature enacted the law.

NOTE

Section 7 has not been proclaimed into force.

Limitation

8. For greater certainty, the provisions of section 7 shall not be interpreted as providing a basis for any claim, by or on behalf of a province, in respect of any interest in or legislative jurisdiction over any offshore area adjacent to the province or the living or non-living resources of that offshore area, or as limiting the application of any federal laws.

COURT JURISDICTION

Jurisdiction extended

9. (1) Subject to subsection (3) and to any regulations made pursuant to subsection (4), a court has jurisdiction in respect of any matter that arises in whole or in part in an offshore area adjacent to a province and to which a law applies pursuant to this Act, if the court would have jurisdiction had the matter arisen in that province.

Orders and powers

(2) A court referred to in subsection (1) may make any order or exercise any power it considers necessary in respect of any matter referred to in that subsection.

Criminal offenses

(3) The jurisdiction and powers of courts with respect to offenses under any federal law are determined pursuant to sections 477.3 and 477.4 of the *Criminal Code*.

Regulations

(4) The Governor in Council may make regulations restricting the application of subsections (1) and (2) to courts of a district or territorial division of a province.

Saving

(5) Nothing in this section limits the jurisdiction that a court may exercise apart from this Act.

Definition of "court"

(6) For the purposes of this section, "court" includes a judge thereof and any justice.

ABORIGINAL RIGHTS**Aboriginal rights**

20. Nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

GENERAL PROVISIONS**Saving**

11. Nothing in sections 1 to 10 limits the operation that any Act, law or instrument has apart from this Act.

Coming into Force

Canadian Laws Offshore Application Act
Chapter 44, S.C. 1990; RA 17.12.90

CIF 04.02.91 except s. 7 (SI/91-18)
s. 7 NIF

The above excerpts of the *Canadian Laws Offshore Application Act* are from chapter 44 of the *Statutes of Canada, 1990* as amended by:

- S.C. 1994, c. 41, s. 37; RA 15.12.94; CIF 12.01.95 (SI/95-10).
- S.C. 1995, c. 5, s. 25; RA 26.03.95; CIF 13.05.95 (SI/95-65).

Constitution Act, 1867*(Formerly The British North America Act, 1867)*

An Act for the Union of Canada, Nova Scotia, and New Brunswick,
and the Government thereof; and for Purposes connected therewith.

Excerpts from
Chapter 3, 30 & 31 Victoria (U.K.)
As amended

NOTE

The excerpts which follow are based on the *Constitution Act, 1867* originally enacted as the *British North America Act, 1867* (U.K.), 30 & 31 Vict., c. 3, and came into force on July 1, 1867.

I. PRELIMINARY*Short title*

1. This Act may be cited as the *Constitution Act, 1867*.

1982, c. 11, s. 1 [Sch. B, Item 53] (U.K.).

II. UNION*Declaration of Union*

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

Four Provinces

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

NOTE

Canada now consists of ten provinces and two territories. See note to section 146.

Provinces of Ontario and Quebec

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

III. EXECUTIVE POWER*Declaration of Executive Power in the Queen*

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

Application of Provisions referring to Governor General

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on

the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

Constitution of Privy Council for Canada

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

All Powers under Acts to be exercised by Governor General with Advice of Privy Council, or alone

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

NOTE

The restriction against altering or repealing laws enacted by or existing under statutes of the United Kingdom was removed by the *Statute of Westminster, 1931*, except in respect of certain constitutional documents.

Application of Provisions referring to Governor General in Council

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the

V. PROVINCIAL CONSTITUTIONS

Executive Power

Appointment of Lieutenant Governors of Provinces

58. For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

VI. DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

Legislative Authority of Parliament of Canada

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next herein-after enumerated; that is to say,—

1A. The Public Debt and Property.

9. Beacons, Buoys, Lighthouses, and Sable Island.

12. Sea Coast and Inland Fisheries.

17. Weights and Measures.

24. Indians, and Lands reserved for the Indians.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised by this Act assigned exclusively to the Legislatures of the Provinces.

13 Geo. VI, c. 81, s. 1 (U.K.);

1982, c. 11, s. 1 [Sch B., Item 53] (U.K.).

NOTE

Legislative authority has also been conferred by the *Rupert's Land Act, 1868* (31 & 32 Vict., c. 105 (U.K.)), *Constitution Act, 1871* (34 & 35 Vict., c. 28 (U.K.)), *Constitution Act, 1886* (49 & 50 Vict., c. 35 (U.K.)), *Statute of Westminster, 1931* (22 Geo. V, c. 4 (U.K.)) and the *Constitution Act, 1982* (1982, c. 11 (U.K.)).

Exclusive Powers of Provincial Legislatures

Subjects of exclusive Provincial Legislation

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next herein-after enumerated; that is to say,—

5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.

13. Property and Civil Rights in the Province.

1982, c. 11, s. 1[Sch. B, Item 53] (U.K.).

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick

Legislation for Uniformity of Laws in Three Provinces

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

VIII. REVENUES; DEBTS; ASSETS; TAXATION

Transfer of Property in Schedule

108. The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

Property in Lands, Mines, etc.

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.

NOTE

The Provinces of Manitoba, British Columbia, Alberta and Saskatchewan were placed in the same position as the original provinces by the *Constitution Act, 1930* (20 & 21 Geo. V, c. 26 (U.K.).

Newfoundland was also placed in the same position by the *Newfoundland Act* (12 & 13 Geo. VI, c. 22 (U.K.).

With respect to Prince Edward Island, see the Schedule to the *Prince Edward Island Terms of Union*.

IX. MISCELLANEOUS PROVISIONS

General

Continuance of existing Laws, Courts, Officers, etc.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.

NOTE

See note to section 12.

Ontario and Quebec

Division of Records

143. The Governor General in Council may from Time to Time order that such and so many of the Records, Books, and Documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence.

XI. ADMISSION OF OTHER COLONIES

Power to admit Newfoundland, etc., into the Union

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

The THIRD SCHEDULE

Provincial Public Works and Property to be the Property of Canada

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, an other Debts due by Railway Companies.
7. Military Roads.

8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general Public Purposes.

NOTE TO SECTION 146

Rupert's Land and the North-Western Territory (subsequently designated the Northwest Territories) became part of Canada, pursuant to this section and the *Rupert's Land Act, 1868*, by the *Rupert's Land and North-Western Territory Order* (June 23, 1870).

The Province of Manitoba was established by the *Manitoba Act, 1870*. This Act was confirmed by the *Constitution Act, 1871*.

British Columbia was admitted into the Union pursuant to this section by the *British Columbia Terms of Union* (May 16, 1871).

Prince Edward Island was admitted into the Union pursuant to this section by the *Prince Edward Island Terms of Union* (June 26, 1873).

The Provinces of Alberta and Saskatchewan were established, pursuant to the *Constitution Act, 1871*, by the *Alberta Act* (July 20, 1905) and the *Saskatchewan Act* (July 20, 1905) respectively.

Newfoundland was admitted as a province by the *Newfoundland Act* (March 23, 1949), which confirmed the Agreement containing the Terms of Union between Canada and Newfoundland.

The Yukon Territory was created out of the Northwest Territories in 1898 by the *Yukon Territory Act*.

See chapter A2 of this Manual for more information about the creation of the provinces and territories.

Coming into Force*Constitution Act, 1867*

30 & 31 Vict., c. 3, (U.K.); RA 29.03.1867

CIF 01.07.1867 by Proclamation dated 22.05.1867

The above excerpts of the *Constitution Act, 1867* are from chapter 3 of the Statutes of the United Kingdom, 30 & 31 Victoria, as amended by (Only those enactments amending the excerpts above are listed):

- 13 Geo. VI, c. 81 (U.K.); RA 16.12.49.
- 1982, c. 11 (U.K.); RA 29.03.82; CIF 17.04.82 (SI/82-97) except paragraph 23(1)(a).

Constitution Act, 1982

Excerpts from
Chapter 11, 1982 (U.K.)
As amended

NOTE

The excerpts which follow are based on the *Constitution Act, 1982* which was enacted as Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11, and came into force on April 17, 1982.

PART I

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

Rights and freedoms in Canada

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental Freedoms

Fundamental Freedoms

2. Everyone has the following fundamental freedoms:
- (a) freedom of conscience and religion;
 - (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
 - (c) freedom of peaceful assembly; and
 - (d) freedom of association.

General

Aboriginal rights and freedoms not affected by Charter

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or

derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

SI/84-102.

Rights guaranteed equally to both sexes

28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

Application to territories and territorial authorities

30. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.

Legislative powers not extended

31. Nothing in this Charter extends the legislative powers of any body or authority.

Application of Charter

Application of Charter

32. (1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of

Parliament including all matters relating to the Yukon Territory and Northwest Territories: and
 (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Exception

(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

Citation**Citation**

34. This Part may be cited as the *Canadian Charter Rights and Freedoms*.

PART II**RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA****Recognition of existing aboriginal and treaty rights**

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Definition of "aboriginal peoples of Canada"

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

Land claims agreements

(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

Aboriginal and treaty rights are guaranteed equally to both sexes

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

SI/84-102.

Commitment to participation in constitutional conference

35.1 The government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 24 of section 91 of the "*Constitution Act, 1867*", to section 25 of this Act or to this Part,

(a) a constitutional conference that includes in its agenda an item relating to the proposed

amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and

(b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item.

SI/84-102.

PART V**PROCEDURE FOR AMENDING CONSTITUTION OF CANADA****General procedure for amending Constitution of Canada**

38. (1) An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by

(a) resolutions of the Senate and House of Commons; and

(b) resolutions of the legislative assemblies of at least two-thirds of the provinces that have, in the aggregate, according to the then latest general census, at least fifty per cent of the population of all the provinces.

Amendment by general procedure

42. (1) An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection 38(1):

(a) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;

(e) the extension of existing provinces into the territories; and

(f) notwithstanding any other law or notice, the establishment of new provinces.

Amendment of provisions relating to some but not all provinces

43. An amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces, including

(a) any alteration to boundaries between provinces, and

(b) any amendment to any provision that relates to the use of the English or the French language within a province,

may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so

authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies.

PART VII

GENERAL

Amendments by Parliament

44. Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

Amendments by provincial legislatures

45. Subject to section 41, the legislature of each province may exclusively make laws amending the constitution of the province.

Initiation of amendment procedures

46. (1) The procedures for amendment under sections 38, 41, 42 and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province.

Revocation of authorization

(2) A resolution of assent made for the purposes of this Part may be revoked at any time before the issue of a proclamation authorized by it.

Primacy of Constitution of Canada

52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Constitution of Canada

(2) The Constitution of Canada includes

- (a) *the Canada Act 1982*, including this Act;
- (b) the Acts and orders referred to in the schedule; and
- (c) any amendment to any Act or order referred to in paragraph (a) or (b).

Amendments to Constitution of Canada

(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada.

Short title and citations

60. This Act may be cited as the *Constitution Act, 1982*, and the Constitution Acts 1867 to 1975 (No. 2) and this Act may be cited together as the *Constitution Acts, 1867 to 1982*.

References

61. A reference to the "*Constitution Acts, 1867 to 1982*" shall be deemed to include a reference to the "*Constitution Amendment Proclamation, 1983*".
SI/84-102.

Coming into Force

Constitution Act, 1982
1982 (U.K.), c. 11, Sch. B; RA 29.03.82

Proclaimed in force 17.04.82 (SI/82-97) except paragraph 23(1)(a) in respect of Quebec.

The above excerpts of the *Constitution Act, 1982* are from Schedule B, chapter 44, *Statutes of the United Kingdom, 1990*, as amended by:

- SI/84-102; CIF 21.06.84.
- SI/93-54; CIF 12.03.93.

Criminal Code

An Act respecting the Criminal Law

Excerpts from

Chapter C-46, R.S.C. 1985

As amended

SHORT TITLE*Short Title*

1. This Act may be cited as the *Criminal Code*.

INTERPRETATION*Definitions*

2. In this Act,

"document of title to goods"

"document of title to goods" includes a bought and sold note, bill of lading, warrant, certificate or order for the delivery or transfer of goods or any other valuable thing, and any other document used in the ordinary course of business as evidence of the possession or control of goods, authorizing or purporting to authorize, by endorsement or by delivery, the person in possession of the document to transfer or receive any goods thereby represented or therein mentioned or referred to;

"document of title to lands"

"document of title to lands" includes any writing that is or contains evidence of the title, or any part of the title, to real property or to any interest in real property, and any notarial or registrar's copy thereof and any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada with respect to registration of titles that relates to title to real property or to any interest in real property;

"property"

"property" includes

- (a) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods,
- (b) property originally in the possession or under the control of any person, and any property into or for which it has been converted or exchanged and anything acquired at any time by the conversion or exchange, and

- (c) any postal card, postage stamp or other stamp issued or prepared for issue under the authority of Parliament or the legislature of a province for the payment to the Crown or a corporate body of any fee, rate or duty, whether or not it is in the possession of the Crown or of any person;

PART IX**OFFENSES AGAINST RIGHTS OF PROPERTY***Offenses Resembling Theft**Destroying documents of title*

340. Every one who, for a fraudulent purpose, destroys, cancels, conceals or obliterates

- (a) a document of title to goods or lands;
- (b) a valuable security or testamentary instrument;
- or
- (c) a judicial or official document,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

Fraudulent Concealment

341. Every one who, for a fraudulent purpose, takes, obtains, removes or conceals anything is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

*Forgery and Offenses Resembling Forgery**Forgery*

366. (1) Every one commits forgery who makes a false document, knowing it to be false, with intent

- (a) that it should in any way be used or acted on as genuine, to the prejudice of any one whether within Canada or not; or

(b) that a person should be induced, by the belief that it is genuine, to do or to refrain from doing anything, whether within Canada or not.

Making False Document

(2) Making a false document includes

- (a) altering a genuine document in any material part;
- (b) making a material addition to a genuine document or adding to it a false date, attestation, seal or other thing that is material; or
- (c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.

When forgery complete

(3) Forgery is complete as soon as a document is made with the knowledge and intent referred to in subsection (1), notwithstanding that the person who makes it does not intend that any particular person should use or act on it as genuine or be induced, by the belief that it is genuine, to do or refrain from doing anything.

Forgery complete though document incomplete

(4) Forgery is complete notwithstanding that the false document is incomplete or does not purport to be a document that is binding in law, if it is such as to indicate that it was intended to be acted on as genuine.

Punishment for forgery

367. (1) Every one who commits forgery is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

S.C. 1994, c. 44, s. 24.

Uttering forged document

368. (1) Every one who, knowing that a document is forged,

- (a) uses, deals with or acts on it, or
- (b) causes or attempts to cause any person to use, deal with or act on it,

as if the document were genuine, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Where forged

(2) For the purposes of proceedings under this section, the place where a document was forged is not material.

PART XI

WILFUL AND FORBIDDEN ACTS IN RESPECT OF CERTAIN PROPERTY

Other Interference with Property

Interfering with boundary lines

442. Every one who wilfully pulls down, defaces, alters or removes anything planted or set up as the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction.

Interfering with international boundary marks, etc.

443. (1) Everyone who wilfully pulls down, defaces, alters or removes

- (a) a boundary mark lawfully placed to mark any international, provincial, county or municipal boundary, or
- (b) a boundary mark lawfully placed by a land surveyor to mark any limit, boundary or angle of a concession, range, lot or parcel of land,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

Saving provision

(2) A land surveyor does not commit an offence under subsection (1) where, in his operations as a land surveyor,

- (a) he takes up, when necessary, a boundary mark mentioned in paragraph (1)(b) and carefully replaces it as it was before he took it up; or
- (b) he takes up a boundary mark mentioned in paragraph (1)(b) in the course of surveying for a highway or other work that, when completed, will make it impossible or impracticable for that boundary mark to occupy its original position, and he establishes a permanent record of the original position sufficient to permit that position to be ascertained.

The above excerpts of the *Criminal Code* are from chapter C-46 of the *Revised Statutes of Canada, 1985* as amended by (Only those enactments amending the excerpts appearing above are listed):

- S.C. 1994, c. 44, s. 24; RA 15.12.94; CIF 15.02.95 (SI/95-20).

Department of Canadian Heritage Act

An Act to establish the Department of Canadian Heritage
and to amend and repeal certain other Acts

Excerpts from
Chapter 11, S.C. 1995
As amended

SHORT TITLE

*Idem**Short title*

1. This Act may be cited as the *Department of Canadian Heritage Act*.

(2) The Minister's jurisdiction referred to in subsection (1) encompasses, but is not limited to, jurisdiction over

(e) national parks, national historic sites, historic canals, national battlefields, national marine conservation areas, heritage railway stations and federal heritage buildings;

ESTABLISHMENT OF THE DEPARTMENT

Department established

2. (1) There is hereby established a department of the Government of Canada called the Department of Canadian Heritage over which the Minister of Canadian Heritage appointed by commission under the Great Seal, shall preside.

Minister

(2) The Minister holds office during pleasure and has the management and direction of the Department.

General duties

5. In exercising the powers and performing the duties and functions assigned to the Minister by section 4, the Minister shall initiate, recommend, coordinate, implement and promote national policies, projects and programs with respect to Canadian identity and values, cultural development, heritage and areas of natural or historical significance to the nation.

Deputy head

3. The Governor in Council may appoint an officer called the Deputy Minister of Canadian Heritage to hold office during pleasure and to be the deputy head of the Department.

AGREEMENTS

Other duties

6. In exercising the powers and performing the duties and functions under this Act, the Minister may enter into agreements with the government of any province or any agency thereof.

POWERS, DUTIES AND FUNCTIONS OF THE
MINISTER

GENERAL

Powers, duties and functions of Minister

4. (1) The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to Canadian identity and values, cultural development, heritage and areas of natural or historical significance to the nation.

Financial assistance and dealing with property

7. To facilitate the implementation of any program of the Minister under this Act, the Minister may

(b) subject to the *Federal Real Property Act* and any direction by the Treasury Board,

(i) acquire or seek to acquire any property by way of gift, bequest or other form of donation, and

(ii) subject to the *Surplus Crown Assets Act* and to the terms and conditions on which the property was acquired, hold, administer, invest, expend, sell, exchange or otherwise dispose of that property; and

Coming into Force

Department of Canadian Heritage Act
S.C. 1995, c. 11; RA 15.06.95

CIF 12.07.96 (SI/96-68)

The above excerpts of the *Department of Canadian Heritage Act* are from chapter 11 of the *Statutes of Canada, 1995*.

Department of Fisheries and Oceans Act

An Act respecting the Department of Fisheries and Oceans

Excerpts from
Chapter F-15, R.S.C. 1985
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Department of Fisheries and Oceans Act*.

- (a) sea coast and inland fisheries;
- (b) fishing and recreational harbours;
- (c) hydrography and marine sciences; and
- (d) the coordination of the policies and programs of the Government of Canada respecting oceans.

ESTABLISHMENT OF THE DEPARTMENT*Idem**Department established*

2. (1) There is hereby established a department of the Government of Canada called the Department of Fisheries and Oceans over which the Minister of Fisheries and Oceans appointed by commission under the Great Seal shall preside.

(2) The powers, duties and functions of the Minister also extend to and include such other matters, relating to oceans and over which Parliament has jurisdiction, as are by law assigned to the Minister.

Minister

(2) The Minister holds office during pleasure and has the management and direction of the Department.

AGREEMENTS*Agreements*

5. The Minister may, with the approval of the Governor in Council, enter into agreements with the government of any province or any agency thereof respecting the carrying out of programs for which the Minister is responsible.

Deputy head

3. The Governor in Council may appoint an officer called the Deputy Minister of Fisheries and Oceans to hold office during pleasure and to be the deputy head of the Department.

ANNUAL REPORT**POWERS, DUTIES AND FUNCTIONS OF THE MINISTER***Annual report*

6. The Minister shall, on or before the 31st day of January next following the end of each fiscal year or, if Parliament is not then sitting, on any of the first five days next thereafter that either House of Parliament is sitting, submit to Parliament a report showing the operations of the Department for that fiscal year.

Powers, duties and functions of Minister

4. (1) The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to

The above excerpts of the *Department of Fisheries and Oceans Act* are from chapter F-15 of the *Revised Statutes of Canada, 1985*.

Department of Indian Affairs and Northern Development Act
An Act respecting the Department of Indian Affairs and Northern Development

Excerpts from
Chapter I-6, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Department of Indian Affairs and Northern Development Act*.

- (a) Indian affairs;
- (b) the Yukon Territory and the Northwest Territories and their resources and affairs; and
- (c) Inuit affairs.

ESTABLISHMENT OF THE DEPARTMENT

Department established

2. (1) There is hereby established a department of the Government of Canada called the Department of Indian Affairs and Northern Development over which the Minister of Indian Affairs and Northern Development appointed by commission under the Great Seal shall preside.

Minister

(2) The Minister holds office during pleasure and has the management and direction of the Department.

Deputy head

3. The Governor in Council may appoint an officer called the Deputy Minister of Indian Affairs and Northern Development to hold office during pleasure and to be the deputy head of the Department.

POWERS, DUTIES AND FUNCTIONS OF THE
MINISTER

Powers, duties and functions of Minister

4. The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency, of the Government of Canada, relating to

Idem

5. The Minister shall be responsible for

- (a) coordinating the activities in the Yukon Territory and the Northwest Territories of the several departments, boards and agencies of the Government of Canada;
- (b) undertaking, promoting and recommending policies and programs for the further economic and political development of the Yukon Territory and the Northwest Territories; and
- (c) fostering, through scientific investigation and technology, knowledge of the Canadian north and of the means of dealing with conditions related to its further development.

Administration

6. The Minister has the administration of all lands situated in the Yukon Territory and the Northwest Territories belonging to Her Majesty in right of Canada except those lands that were immediately before October 1, 1966 under the management, charge and direction of any minister, department, branch or agency of the Government of Canada other than the Minister of Northern Affairs and National Resources or the Department of Northern Affairs and National Resources.

S.C. 1991, c. 50, s. 30.

ANNUAL REPORT

Annual report

7. The Minister shall, on or before January 31 next following the end of each fiscal year or, if Parliament is not then sitting, on any of the first five days next thereafter that either House of Parliament is sitting, submit to Parliament a report showing the operations of the Department for that fiscal year.

The above excerpts of the *Department of Indian Affairs and Northern Development Act* are from chapter I-6 of the *Revised Statutes of Canada, 1985* as amended by:

- S.C. 1991, c. 50, s. 30; RA 17.12.91; CIF 15.09.92 (SI/92-151).

Department of Natural Resources Act

An Act to establish the Department of Natural Resources and to amend related Acts

Excerpts from
Chapter 41, S.C. 1994
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Department of Natural Resources Act*.

INTERPRETATION*Definitions*

2. In this Act,

"Minister"

"Minister" means the Minister of Natural Resources;

"natural resources"

"natural resources" means mines, minerals and other non-renewable resources, energy, including energy developed from water, and forest resources;

"remote sensing"

"remote sensing" means the reception and processing of earth observation data acquired by airborne or space-borne systems;

"sustainable development"

"sustainable development" means development that meets the needs of the present without compromising the ability of future generations to meet their own needs;

"technical surveys"

"technical surveys" has the same meaning as in section 2 of the *Resources and Technical Surveys Act*.

ESTABLISHMENT OF THE DEPARTMENT*Department established*

3. (1) There is hereby established a department of the Government of Canada called the Department of Natural Resources over which the Minister of Natural Resources appointed by commission under the Great Seal shall preside.

Minister

(2) The Minister holds office during pleasure and has the management and direction of the Department.

Deputy head

4. The Governor in Council may appoint an officer called the Deputy Minister of Natural Resources to hold office during pleasure and to be the deputy head of the Department.

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER*Minister's powers, duties and functions*

5. The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to

- (a) natural resources;
- (b) explosives; and
- (c) technical surveys relating to any matter other than a matter to which the powers, duties and functions of the Minister of the Environment and the Minister of Fisheries and Oceans extend by law;

General duties

6. In exercising the powers and performing the duties and functions assigned to the Minister by section 5, the Minister shall

- (a) have regard to the sustainable development of Canada's natural resources and the integrated management thereof;
- (b) coordinate, promote, recommend and implement policies with respect to the matters referred to in that section, and programs and practices established pursuant to those policies;
- (c) assist in the development and promotion of Canadian scientific and technological capabilities;
- (d) participate in the development and application of codes and standards for technical surveys and natural resources products and for the management and use of natural resources;

(e) seek to enhance the responsible development and use of Canada's natural resources and the competitiveness of Canada's natural resources products;

(f) participate in the enhancement and promotion of market access for Canada's natural resources products and technical surveys industries, both domestically and internationally;

(g) promote the development and use of remote sensing technology;

(h) promote cooperation with the governments of the provinces and with non-governmental organizations in Canada, and participate in the promotion of cooperation with the governments of other countries and with international organizations; and

(i) gather, compile, analyze, coordinate and disseminate information respecting scientific, technological, economic, industrial, managerial, marketing and related activities and developments affecting Canada's natural resources.

GENERAL

Report required by Governor in Council

7. (1) The Governor in Council may make regulations requiring the Minister to prepare a report respecting any matter related to the Minister's powers, duties and functions.

Tabling of report

(2) The Minister shall cause a copy of any report required by the Governor in Council to be laid before each House of Parliament as soon as practicable after the report is prepared.

Coming into Force

Department of Natural Resources Act

S.C. 1994, c. 41; RA 15.12.94

CIF 12.01.95 (SI/95-10)

The above excerpts of the *Department of Natural Resources Act* are from chapter 41 of the *Statutes of Canada, 1994*.

Department of Public Works and Government Services Act

An act to establish the Department of Public Works and Government Services
and to amend and repeal certain Acts

Excerpts from
Chapter 16, S.C. 1996
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Department of Public Works and Government Services Act*.

INTERPRETATION*Definitions*

2. In this Act,

"Crown corporation"

"Crown corporation" has the same meaning as in section 2 of the *Financial Administration Act*;

"department"

"department" has the same meaning as in section 2 of the *Financial Administration Act*;

"federal real property"

"federal real property" has the same meaning as in section 2 of the *Federal Real Property Act*;

"Minister"

"Minister" means the Minister of Public Works and Government Services;

"public work"

"public work" means any work or property under the management or control of the Minister.

*Establishment of the Department**Department established*

3. (1) There is hereby established a department of the Government of Canada called the Department of Public Works and Government Services over which the Minister of Public Works and Government Services appointed by commission under the Great Seal shall preside.

Minister

(2) The Minister holds office during pleasure and has the management and direction of the Department.

Deputy head

4. (1) The Governor in Council may appoint an officer called the Deputy Minister of Public Works and Government Services to hold office during pleasure and to be the deputy head of the Department.

ACTIVITIES OF THE DEPARTMENT*Common service agency*

5. The Department shall operate as a common service agency for the Government of Canada, and its activities as a common service agency shall be directed mainly toward providing the departments, boards and agencies of the Government of Canada with services in support of their programs.

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER*Minister's powers, duties and functions*

6. The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to

(b) the acquisition and provision of services for departments;

(e) the construction, maintenance and repair of public works and federal real property;

(h) the provision to departments of advice on or related to architectural or engineering matters affecting any public work or federal real property; and

Delegation

8. The Minister may delegate any of the Minister's powers, duties or functions under this Act to an appropriate minister, within the meaning of the *Financial Administration Act*, for any period and under

any terms and conditions that the Minister considers suitable.

REGULATIONS

Federal real property

10. (1) The Minister has the administration of all federal real property except federal real property under the administration of any other minister, board or agency of the Government of Canada or any corporation.

Other properties

(2) The minister may incur expenditures or perform, or have performed, services or work in relation to

- (a) any federal real property;
- (b) any work or other property belonging to Her Majesty in right of Canada; and
- (c) any real or immovable property, any work or any other property not belonging to Her Majesty in right of Canada, with the consent of its owner.

Administrative and other services

15. The Minister may, on request of a department, board or agency of the Government of Canada, provide it with

- (f) services and advice in relation to the acquisition, management or disposition of real or immovable property;
- (h) services of any other kind that are within the ambit of the Minister's powers, duties and functions.

Regulations

23. (1) The Governor in Council may make such regulations as the Governor in Council deems necessary for the management, maintenance, proper use and protection of federal real property under the administration of the Minister and of public works and for the ascertaining and collection of tolls, dues and revenues with respect to them.

BEDS OF NAVIGABLE WATERS

Power to dredge beds of navigable waters

24. Whenever the Governor in Council, or the minister charged with any work for the improvement of navigation, directs any work to be performed in any navigable water for the improvement of navigation, the officers or servants of Her Majesty or the contractors for the work, under the direction of the Governor in Council or of that minister, may

- (a) enter on, dig up, dredge and remove any part of the bed of that navigable water; or
- (b) build or erect any works on it that are directed or authorized by the Governor in Council or by that minister for the improvement of the navigation.

EVIDENCE

Copies

25. A copy of any map, plan or other document in the custody of the Department, certified by a person designated by the Minister to be a true copy, shall be held to be authentic, and is, in the absence of evidence to the contrary, of the same legal effect as the original.

Coming into Force

Department of Public Works and Government Services Act
S.C. 1996, c. 16; RA 20.06.96

CIF 12.07.96 ex. ss. 32, 54 and 55 (SI/96-67)

The above excerpts of the *Department of Public Works and Government Services Act* are from chapter 16 of the *Statutes of Canada, 1996*.

Dominion Water Power Act An Act respecting Dominion water-powers

Excerpts from
Chapter W-4, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Dominion Water Power Act*.

INTERPRETATION

Definitions

2. In this Act,

"Dominion water-powers"

"Dominion water-powers" means any water-powers on public lands, or any other water-powers that are the property of Canada and have been or may be placed under the control and management of the Minister;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"public lands"

"public lands" means lands belonging to Her Majesty in right of Canada and includes lands of which the Government of Canada has power to dispose;

"stream" or "water"

"stream" or "water" means any river, brook, lake, pond, creek or other flowing or standing water;

"undertaking"

"undertaking" means the undertaking required or proposed to be established or carried on in pursuance of this Act or the regulations by Her Majesty or by any applicant, licensee or person in the development of any Dominion water-power or in the transmission, distribution or utilization of the force or energy produced from the water-power, and includes, in so far as authorized or required,

- (a) the storage, pondage, penning back, regulation, augmentation, carriage, diversion and use of water or of the flow thereof,
- (b) the generation of energy at any plant that is used as an auxiliary to the water-power plant,
- (c) the surveying, laying out, constructing, maintaining and operating of works, including dams, flumes, penstocks, power stations,

transmission lines, terminal stations and substations,

(d) the surveying of any public lands or other lands, the carrying on of investigations, and the collection of data,

(e) the acquisition and use of lands and properties or any interest therein,

(f) the administration and management of the required lands, works and properties, and the business connected therewith, and

(g) matters incidental to any matters referred to in paragraphs (a) to (f);

"water-power"

"water-power" includes any force or energy of whatever form or nature contained in or capable of being produced or generated from any flowing or falling water in such quantity as to make it of commercial value.

APPLICATION

Application of Act

3. This Act applies

- (a) to all Dominion water-powers;
- (b) to all public lands required in connection with the development or working of Dominion water-powers or for purposes incidental thereto;
- (c) to all lands and properties that may be acquired or authorized to be acquired under the terms and for the purposes of this Act, or may have been acquired and are still used or may be required in connection with Dominion water-powers;
- (d) to the power and energy produced or producible from the waters on or within the lands referred to in paragraph (c), whether the power or energy derived therefrom or any portion thereof is distributed or utilized on public lands or not;
- (e) to all undertakings established or carried on in respect of any Dominion water-powers; and

(f) to all matters incidental to any matters referred to in paragraphs (a) to (e).

GENERAL

Title to water-powers in Crown

4. (1) The property in, and the right to the use of, all Dominion water-powers are hereby declared to be vested in and shall remain in the Crown, except any rights of property in or relating to the use of Dominion water-powers that before June 6, 1919 were granted by the Crown.

For the general advantage of Canada

(2) Every undertaking under this Act is hereby declared to be a work for the general advantage of Canada.

Essential lands also remain Crown property

5. (1) Public lands

- (a) on or within which there is water-power,
- (b) required for the protection of any water-power, or
- (c) required for the purposes of any undertaking,

and the water-powers and waters thereon shall not be open to entry, and except as otherwise provided in this Act, no interest therein shall be leased or otherwise granted or conveyed by the Crown.

Idem

(2) Any grant or conveyance made, on or after June 6, 1919, of any public lands referred to in subsection (1) or any interest therein, except in pursuance of this Act and the regulations, shall not vest in the grantee any exclusive or other property or interest with respect to those lands.

Lands adjacent to submerged areas

(3) Where small areas only of any parcel or subdivision of any public lands are required to be submerged along the bank of any stream in connection with an undertaking and it has not been found practicable or expedient to make surveys for the purpose of setting out the exact limits of the area to be flooded, the Minister may dispose of the parcel or subdivision in accordance with any other Act or regulation applicable to the disposal of those lands, but reserving the right at any time to raise the water surface to such elevation as may be required in connection with the undertaking.

Expropriation by Crown

6. Where any land or any interest therein is required by Her Majesty for any undertaking or is necessary for creating, protecting or developing any water-power, the Governor in Council may direct the Minister on behalf of Her Majesty to acquire by expropriation the title to that land or interest therein as may be required, and thereupon the provisions of the *Expropriation Act* in so far as applicable apply as if included in this Act.

Power to expropriate

7. (1) Any person who, pursuant to this Act or the regulations, is authorized to carry out any undertaking may, after receiving written permission from the Minister, expropriate in accordance with the *Expropriation Act* any land or interest in land, other than public lands or any interest in public lands, that may, in the opinion of the Minister, be required for the undertaking.

Notice to appropriate minister

(1.1) Where the Minister grants permission under subsection (1), the person to whom permission is granted shall so advise the appropriate minister in relation to Part I of the *Expropriation Act*.

Expropriation Act

(1.2) For the purposes of the *Expropriation Act*, land or an interest in land in respect of which the Minister has granted permission under subsection (1) is deemed to be an interest in land that, in the opinion of the appropriate minister in relation to Part I of the *Expropriation Act*, is required for a public work or other public purpose, and a reference to the Crown in that Act shall be construed as a reference to the person to whom the Minister granted permission.

Exception

(2) This section does not apply to lands belonging to any railway company that are used or required by the company for the purposes of its railway.

R.S.C. 1985, c. 28 (3rd Supp.), s. 359 [Sch., Item 12];
S.C. 1996, c. 10, s. 273.

Cancellation of entries, leases, etc.

8. (1) Where an entry, permit, lease or licence has been granted or issued, or the Crown has entered into any agreement or other form of conveyance under which public lands that are required, or any interest therein that is required, for an undertaking are occupied or held in a manner inconsistent with the carrying out of the undertaking, the Governor in Council may order and direct the cancellation of the entry, permit, lease, licence or agreement, in whole or in part, or may direct that the terms thereof be so modified as to reserve to

the Crown the lands or rights in the lands that are required for the undertaking.

conditions and covenants to be included in the agreement.

Compensation

(2) In every case compensation shall be paid to the permittee, entrant, lessee, licensee or party to an agreement or other form of conveyance referred to in subsection (1).

Complete cancellation

(3) In the case of a complete cancellation under subsection (1), compensation under subsection (2) shall include such sums as have been actually paid to the Crown on account of lands and expended for improvements thereon, with interest at the rate of six per cent per annum, as well as an amount to cover the estimated actual loss or damage, if any, sustained by reason of the cancellation.

Partial cancellation

(4) In the case of a partial cancellation under subsection (1), compensation under subsection (2) shall include the actual reasonable value, if any, of the lands or interest therein taken.

Minister to fix amount

(5) The Minister shall in each case fix the amount of the compensation to be paid, subject to appeal to the Federal Court.

Joint development of water-powers

9. Where two or more water-powers are so situated that they can be more economically and satisfactorily utilized by being developed jointly and operated under one control, and

- (a) if those water-powers have not been granted by the Crown, the Governor in Council may order that they be disposed of in such manner and subject to such conditions as will, in his opinion, secure the joint development and single control; or
- (b) if the right to develop one or more of those water-powers has been granted to or is held by any person, and the Governor in Council is of the opinion that the public interest will best be served by reserving the remaining water-power or water-powers so as to bring about the joint development and single control of all of those water-powers, the Governor in Council may order the remaining water-power or water-powers to be reserved for such period as he deems necessary in order to secure the joint development and single control, and may authorize the Minister to enter into an agreement with the person holding the water-power or water-powers for the purposes described in this paragraph, and may prescribe the terms,

Surveys, measurements, etc.

10. (1) The Minister may direct or order

- (a) that such surveys and other proceedings be taken as may, in his opinion, be required to ascertain the public lands or any other lands or any interests in any lands that it may be necessary to reserve or acquire for any undertaking, and the decision of the Minister with respect to the lands or interests therein that may in any case be required is final;
- (b) that a survey of all streams and all necessary investigations with respect to water-powers be taken to determine the total utilized and available water-power and the maximum that can be made available by storage, regulation or other artificial means;
- (c) that the volume or discharge of any stream or body of water, or the economic availability or usefulness thereof, for power purposes be ascertained;
- (d) that the flow or quantity of water used, and of the output of electrical or other form of energy produced from the use of water, by any licensee or other person be ascertained; and
- (e) that gauges, weirs, meters or other devices for water or water-power measurements or for measuring the output of electrical or other forms of energy be established.

Records and plans

(2) The records and plans of surveys and investigations taken under subsection (1) shall be kept on file in the Department of Indian Affairs and Northern Development, and may be published in such form and to such extent as the Minister may determine.

Director of Water-Power

13. For the purposes of this Act, all investigations and surveys and all undertakings shall, subject to the control of the Minister, be under the direction of a duly qualified officer to be designated the Director of Water-Power.

ORDERS AND REGULATIONS

Powers of Governor in Council

14. The Governor in Council may make such orders as are deemed necessary to carry out the provisions of this Act and the regulations according to their true

intent or to meet any cases that arise for which no provision is made in this Act.

Regulations

15. The Governor in Council may make regulations

- (d) for the use and occupancy of public lands and other lands or of any interest therein required for any of the purposes set out in this Act;
- (e) for the withdrawal from disposal under any other Act of any public lands or of any interest therein required for any purposes set out in this Act;

(f) for the granting and the administering of rights, powers and privileges in or with respect to water-powers or undertakings;

(g) prescribing the conditions on which the works, lands and properties held in respect of any undertaking may be taken over on the expiration of the term of any agreement, lease or licence or on the termination thereof for non-compliance with any of the covenants, terms or conditions contained in the agreement, lease or licence or for any other reason;

(t) generally, for carrying into effect the purposes and provisions of this Act.

The above excerpts of the *Dominion Water Power Act* are from chapter W-4 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 28 (3rd Supp.), s. 359 [Sch., Item 12]; RA 20.08.87; CIF 01.01.88 (SI/88-26).
- S.C. 1996, c. 10, s. 273; RA 29.05.96; CIF 01.07.96 (SI/96-53).

Expropriation Act

An Act respecting the Expropriation of land

Excerpts from
Chapter E-21, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Expropriation Act*.

INTERPRETATION

Definitions

2. In this Act,

"Court"

"Court" means the Federal Court;

"Crown"

"Crown" means Her Majesty in right of Canada;

"expropriated"

"expropriated" means taken by the Crown under Part I;

"expropriated interest"

"expropriated interest" means any right, estate or interest that has been lost, in whole or in part, by the registration of a notice of confirmation under Part I;

"interest in land"

"interest in land", in relation to land in the Province of Quebec, includes the interest of a lessee therein;

"land"

"land" includes buildings, structures and other things in the nature of fixtures and mines and minerals whether precious or base, on, above or below the surface;

"Minister"

"Minister"

(a) in relation to the provisions of this Act other than Part II, means the Minister of Public Works and Government Services or, for such periods and in relation to such matters to which the powers, duties and functions of the Minister under this Act extend as may be specified in any instrument of delegation signed by the Minister of Public Works and Government Services and published in the *Canada Gazette*, such other Minister described in paragraph (b) as is named in the instrument, and

(b) in relation to Part II, means a Minister presiding over a department named in Schedule I to the *Financial Administration Act*;

"notice of confirmation"

"notice of confirmation" means a notice of confirmation described in section 14;

"notice of intention"

"notice of intention" means a notice of intention described in section 5;

"owner"

"owner", in relation to any expropriated interest, includes the owner of a leasehold interest;

"register"

"register" includes file or deposit;

"registrar"

"registrar" means the registrar or master of deeds or land titles or other officer with whom the title to land is registered or recorded.

S.C. 1996, c. 16, s. 60.

PART I

EXPROPRIATION

Acquisition and Abandonment of Land

Authority to expropriate

4. (1) Any interest in land, including any of the interests mentioned in section 7, that, in the opinion of the Minister, is required by the Crown for a public work or other public purpose may be expropriated by the Crown in accordance with the provisions of this Part.

Exception

(2) No interest in land that is Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*, chapter 18 of the Statutes of Canada, 1984, may be expropriated under this Part without the consent of the Governor in Council.

Exception

(3) No interest in lands that are "Sechelt lands", as defined in the *Sechelt Indian Band Self-Government Act*, chapter 27 of the Statutes of Canada, 1986, may

be expropriated under this Part without the consent of the Governor in Council.

Exception

(4) No interest in settlement land as defined in section 2 of the *Yukon Surface Rights Board Act* may be expropriated under this Part without the consent of the Governor in Council.

Exception

(5) No interest in Tetlit Gwich'in Yukon land may be expropriated under this Part without the consent of the Governor in Council.

Notice of intention

(6) Where an interest in land referred to in subsection (4) or (5) is to be expropriated, notice of intention to obtain the consent of the Governor in Council shall be given to the Yukon first nation or Gwich'in Tribal Council, as the case may be, on completion of any public hearing and submission of a report to the Minister required by section 10 or, if no hearing is held, on the expiration of the period of thirty days referred to in section 9.

Definition of "Tetlit Gwich'in Yukon land"

(7) In this section, "Tetlit Gwich'in Yukon land" means land as described in Annex B, as amended from time to time, to Appendix C of the Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, that was approved, given effect and declared valid by the *Gwich'in Land Claim Settlement Act*.

R.S.C. 1985, c. 20 (2nd Supp.), s. 2;

S.C. 1994, c. 43, s. 84.

Request by railway company to expropriate

4.1 (1) Where a railway company, as defined in section 87 of the *Canada Transportation Act*, requires an interest in land for the purposes of its railway and has unsuccessfully attempted to purchase the interest in land, the railway company may request the Minister of Transport to have the Minister have the interest in land expropriated by the Crown in accordance with this Part.

Power of Minister

(2) The Minister shall have the interest in land expropriated by the Crown in accordance with this Part where

(a) the Minister of Transport is of the opinion that the interest in land is required by the railway company for its railway and recommends to the Governor in Council that it be expropriated in accordance with this Part; and

(b) the Governor in Council consents to the expropriation of the interest in land.

Deemed opinion

(3) If the Minister of Transport is of the opinion that the interest in land is required by the railway company for its railway, the Minister is deemed to be of the opinion that the interest in land is required by the Crown for a public work or other public purpose.

Vesting of interest in land

(7) For the purpose of this section, the reference to the Crown in section 15 shall be construed as a reference to the railway company that made a request under subsection (1).

Restriction on alienation

(8) Where an interest in land was vested in the Crown before the expropriation vests in a railway company pursuant to section 15, the railway company may not alienate that interest except to transfer it to the Crown.

added, S.C. 1996, c. 10, s. 228.

Notice of intention to expropriate

5. (1) Whenever, in the opinion of the Minister, any interest in land is required by the Crown for a public work or other public purpose, the Minister may request the Attorney General of Canada to register a notice of intention to expropriate the interest, signed by the Minister, setting out

- (a) a description of the land;
- (b) the nature of the interest intended to be expropriated and whether the interest is intended to be subject to any existing interest in the land;
- (c) an indication of the public work or other public purpose for which the interest is required; and
- (d) a statement that it is intended that the interest be expropriated by the Crown.

Registration of notice

(2) On receiving from the Minister a request to register a notice of intention described in this section, the Attorney General of Canada shall cause the notice, together with a plan of the land to which the notice relates, to be registered in the office of the registrar for the county, district or registration division in which the land is situated, and, after causing such investigations and searches to be made respecting the state of the title to the land as appear to him to be necessary or desirable, the Attorney General of Canada shall furnish the Minister with a report setting out the names and latest known addresses, if any, of the persons

appearing to have any right, estate or interest in the land, so far as he has been able to ascertain them.

Error, etc., in notice or plan

6. (1) Where a notice or plan registered under section 5 contains any omission, misstatement or erroneous description, a corrected notice or plan may be registered, which shall be deemed to relate back to the day the original notice or plan was registered.

Validity of notice

(2) A notice registered under section 5 is not invalid by reason only that it does not set out the nature of the interest intended to be expropriated and, in that case, the interest intended to be expropriated includes all the interests in the land to which the notice relates.

Idem

(3) A notice registered under section 5 is not invalid by reason only that it does not set out whether the interest intended to be expropriated is intended to be subject to an existing interest in the land to which the notice relates, and, where it does not do so, the interest intended to be expropriated is not subject to that existing interest.

Provincial lands

(4) Where it appears to the Attorney General of Canada that any land or interest in land to which a notice registered under section 5 relates belongs to Her Majesty in right of any province, he shall thereupon cause the attorney general of the province to be notified of the registration and of the particulars thereof.

Nature of interests that may be set out in notice

7. A notice of intention may set out, as the nature of the interest intended to be expropriated, any estate or interest in land, including, without restricting the generality of the foregoing,

- (a) an interest limited as to time or by condition or otherwise;
- (b) an easement, profit or servitude;
- (c) any right to, over or in respect of land that might be conferred by the owner of the land, whether or not that right, if conferred by the owner, could be asserted against a subsequent owner of the land;
- (d) any restriction on the use of land that might be assumed by covenant or other agreement, whether or not that restriction, if assumed by the owner of the land, could be asserted against a subsequent owner thereof; and

(e) the exclusive possession of land for a limited time or for a definite or indefinite period, subject to such conditions or limitations, if any, as may be specified in the notice,

Sending of copies and publication of notice

8. (1) Where a notice of intention to expropriate an interest in land has been registered, the Minister shall cause a copy of the notice

(a) to be published in at least one issue of a publication, if any, in general circulation within the area in which the land is situated, within thirty days after the registration of the notice, and

(b) to be sent to each of the persons whose names are set out in the report of the Attorney General of Canada referred to in subsection 5(2), as soon as practicable after the registration of the notice,

and forthwith after causing a copy thereof to be sent by registered mail to each of the persons referred to in paragraph (b), shall cause the notice to be published in the *Canada Gazette*.

When notice deemed given

(2) A notice of intention shall be deemed to be given on the day on which it is published in the *Canada Gazette* under subsection (1), and where any notice so published contains an omission, misstatement or erroneous description, a corrected notice may be published in the *Canada Gazette*, which shall be deemed to relate back to the day the original notice was published therein.

Statement re right to object

(3) There shall be included in any notice or copy thereof published or sent as described in subsection (1) a statement of the provisions of section 9 as that section applies to the intended expropriation of the interest to which the notice relates.

Objections

9. Any person who objects to the intended expropriation of an interest in land to which a notice of intention relates may, within thirty days after the day the notice is given, serve on the Minister an objection in writing stating the name and address of that person and indicating the nature of the objection, the grounds on which the objection is based and the nature of the interest of that person in the matter of the intended expropriation.

Public hearing

10. (1) Forthwith after the expiration of the period of thirty days referred to in section 9, the Minister shall, if the Minister has been served with an objection under that section, order that a public hearing be conducted with respect to the objection and any other objection to the intended expropriation that has been or may be served on the Minister.

Order where possession by Crown urgently required

(11) Where, before a notice of intention is registered, the Governor in Council is of the opinion that the physical possession or use by the Crown of the land to the extent of the interest intended to be expropriated is, by reason of special circumstances, urgently required and that to order that a public hearing be conducted with respect thereto would occasion a delay prejudicial to the public interest, the Governor in Council may direct that no order be made by the Minister under subsection (1) with respect to the intended expropriation and, in which case, a statement to that effect shall be included in the notice of intention.

Exception

(12) Subsection (1) does not apply in respect of land described in subsection 4(4) or (5), but the Yukon first nation concerned or the Gwich'in Tribal Council, as the case may be, may agree to waive the requirement for a public hearing and, if it does so before a notice of intention is registered, a statement of the waiver shall be included in the notice of intention.

S.C. 1994, c. 43, s. 85.

Confirmation or abandonment of intention

11. (1) Where a notice of intention has been given, the Minister may,

- (a) confirm the intention, in the manner provided in section 14,
 - (i) if no objection is filed with him under section 9 within the period of thirty days referred to in that section,
 - (ii) if an objection has been filed with him under section 9 within the period of thirty days referred to in that section, after receiving and considering the report of a hearing officer appointed to conduct a public hearing with respect thereto, or
 - (iii) whether or not an objection has been filed with him under section 9, if a statement to the effect described in subsection 10(11) has been included in the notice of intention; or
- (b) abandon the intention.

Idem

(2) Where, on the expiration of one hundred and twenty days after the day the notice was given, the Minister has not confirmed the intention in the manner provided in section 14, the Minister shall be deemed to have abandoned the intention.

Where more limited interest only required

(3) Whenever, at the time of confirming an intention to expropriate an interest in land, the Minister is of the opinion that a more limited interest only is required by the Crown for a public work or other public purpose, the Minister may confirm the intention to expropriate the more limited interest, in which case the Minister shall be deemed to have abandoned the intention to expropriate the remainder of the interest,

Notice of confirmation of intention

14. (1) The Minister may confirm an intention to expropriate an interest in land to which a notice of intention relates, or a more limited interest therein, by requesting the Attorney General of Canada to register a notice of confirmation, signed by the Minister, setting out,

- (a) if the interest expropriated is the same as the interest to which the notice of intention relates, a statement that the intention to expropriate that interest is confirmed; or
- (b) if the interest expropriated is a more limited interest than the interest to which the notice of intention relates, a statement that the intention to expropriate the interest to which the notice of intention relates is confirmed except as expressly specified in the statement.

Registration of notice

(2) On receiving from the Minister a request to register a notice of confirmation described in this section, the Attorney General of Canada shall cause the notice to be registered in the office of the registrar where the notice of intention was registered, and if the land to which the notice of confirmation relates is more limited in area than the land described in the notice of intention, shall cause a revised plan of the land to which the notice of confirmation relates to be registered therewith.

Effect of registration of notice

15. On the registration of a notice of confirmation,
- (a) the interest confirmed to be expropriated becomes and is absolutely vested in the Crown; and
 - (b) any other right, estate or interest is, as against the Crown or any person claiming through or under

the Crown, thereby lost to the extent that right, estate or interest is inconsistent with the interest confirmed to be expropriated.

Determination respecting title

18. (1) Where the Attorney General of Canada, at any time after the registration of a notice of confirmation, is in doubt as to the persons who had any right, estate or interest in the land to which the notice relates or as to the nature or extent thereof, the Attorney General of Canada may apply to the Court to make a determination respecting the state of the title to the land or any part thereof immediately before the registration of the notice, and to adjudge who had a right, estate or interest in the land at that time, and the nature and extent thereof.

Right of Crown to physical possession

19. (1) Notwithstanding section 15, the Crown becomes entitled to take physical possession or make use of any land to which a notice of confirmation relates, to the extent of the interest expropriated, only at such of the following times as is applicable, namely,

- (a) at the time, of the registration of the notice of confirmation, if at that time no other person who was the owner of an interest therein immediately before the registration of the notice of confirmation is in occupation of the land;
- (b) at such time, if any, after the registration of the notice of confirmation as physical possession or use of the land to the extent of the interest expropriated is given up to the Crown without any notice under paragraph (c) having been sent to the persons described in that paragraph; or
- (c) in any other case, at such time after the registration of the notice of confirmation as

- (i) the Minister has sent a notice to each of the persons appearing to have had any right, estate or interest therein at the time of the registration of the notice of confirmation, so far as the Attorney General of Canada has been able to ascertain them, or, where an application has been made under section 18 and has been finally disposed of, to each of the persons adjudged to have had an interest therein immediately before the registration of the notice of confirmation, that physical possession or use is required by the Crown on and after the expiration of such period as is specified in the notice, being not less than ninety days after the sending of the notice to each of those persons, and either that period has expired or physical possession or use has

been given up to the Crown before the expiration of that period, and

- (ii) the Minister has made an offer under section 16 to each of the persons then entitled to compensation under this Part in respect of an interest therein.

Where possession by Crown urgently required

(2) Where, at any time before or after a notice of confirmation has been registered, the Governor in Council is of the opinion that the physical possession or use by the Crown of the land to which the notice relates to the extent of the interest expropriated or intended to be expropriated is, by reason of special circumstances, urgently required, the Governor in Council may direct

- (a) that there be substituted for the ninety days referred to in paragraph (1)(c) such lesser number of days as in his opinion the circumstances require; or
- (b) where an application has been made under section 18 but has not been finally disposed of, that physical possession or use may be taken made by the Crown notwithstanding that no offer has then been made under section

Effect of confirmation of abandonment

21. Where an interest expropriated or a remainder of an interest in land is confirmed to be abandoned, the interest expropriated thereupon reverts in the persons from whom it was taken or the persons entitled to claim through or under them, or the land thereupon reverts in those persons subject to the more limited interest therein retained, by the Crown, as the case may be.

Duties of registrar

22. Every registrar shall receive and permanently preserve in his office such notices and plans as the Attorney General of Canada causes to be registered under this Part, and shall endorse thereon the day, hour and minute when they were received by him as the time of registration and make such entries in his records as will make their registration of public record.

Notice conclusive except against Crown

23. Unless questioned by the Crown,

- (a) a document purporting to be signed by the Minister shall be deemed to have been so signed;
- (b) it shall be deemed that
 - (i) all of the interests to which a notice of intention relates are,

- (ii) a more limited interest only to which a notice of confirmation relates is, or
- (iii) an interest stated in a notice of abandonment to be abandoned or the remainder of the interest, as the case may be, is not or is no longer,

in the opinion of the Minister required by the Crown for a public work or other public purpose; and

(c) it shall be deemed that, on being caused to be registered by the Attorney General of Canada in the office of the registrar where a notice of intention to expropriate an interest in land was registered, a document purporting to be a notice of confirmation of the intention to expropriate that interest or a more limited interest only in the land is a notice of confirmation thereof thereupon registered in accordance with this Part.

when required, of the right of the Crown to take physical possession or make use thereof, and after notice to show cause given in such manner and to such persons who shall be parties to the proceedings as the judge prescribes, issue his warrant in accordance with the form set out in the schedule to the appropriate sheriff directing him to put the Minister, or a person authorized to act for him, in physical possession of the land to the extent of the interest expropriated.

Execution of warrant

(2) The sheriff shall forthwith execute a warrant issued to him under this section and shall make return of the warrant to the court to which the judge who issued it belongs, and of the manner in which it was executed.

PART II

USE OF LANDS

Entry and Possession

Entry for inspection appraisal

37. (1) Where a notice of intention has been registered, any person authorized in writing in that behalf by the Minister may, at any reasonable time on notice to a person in occupation of the land to which the notice relates, enter on the land for the purpose of making any inspection of the land that he is authorized by this Part to make, or for the purpose of making an appraisal of the value of the land or any interest therein.

Prevention, etc., of entry

(2) Every one who, without lawful excuse, prevents any person from or obstructs or hinders any person in doing any thing that person is authorized by subsection (1) to do is guilty of an offence punishable on summary conviction.

Warrant for possession

38. (1) When the Minister, or a person acting for the Minister, is prevented from entering on or taking physical possession or making use of any land to the extent of any interest expropriated under this Part, a judge of the Court or any judge of a superior court of a province may, on proof of the expropriation and,

Powers of Minister

40. A Minister, or any other person with the written consent of the Minister, may, on seven days notice sent to the owner thereof,

- (a) enter into and on any land and survey and take levels of the land, and make such borings or sink such trial pits as the Minister or other person deems necessary for any purpose related to a public work;

Removal and replacement of wall, fence, etc.

41. Whenever it is necessary, in the construction, repair or maintenance of a public work, to take down or remove any wall or fence of any owner or occupier of land adjoining a public work, or to construct any drain or ditch for carrying off water, the wall or fence shall be replaced as soon as the necessity that caused its taking down or removal has ceased, and after it has been so replaced, or when the drain or ditch is completed, the owner or occupier of the land shall maintain the wall, fence, drain or ditch to the same extent as he might by law be required to do if the wall or fence had never been so taken down or removed, or the drain or ditch had always existed.

The above excerpts of the *Expropriation Act* are from chapter E-21 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 20 (2nd Supp.), s. 2; RA 17.06.86; CIF 09.10.86 (SI/86-193).
- S.C. 1994, c. 43, ss. 84 to 86; RA 15.12.94; CIF 14.02.95 (SI/95-19).
- S.C. 1996, c. 10, s. 228; RA 29.05.96; CIF 01.07.96 (SI/96-53).
- S.C. 1996, c. 16, s. 60; RA 20.06.96; CIF 12.07.96 (SI/96-67).

Federal Real Property Act

An Act respecting the acquisition, administration and disposition of real property by the Government of Canada

Excerpts from
Chapter 50, S.C. 1991
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Federal Real Property Act*.

INTERPRETATION

Definitions

2. In this Act,

"administration"

"administration" means administration within the meaning of section 18;

"agent corporation"

"agent corporation" means an agent corporation as defined in section 83 of the *Financial Administration Act*;

"Crown grant"

"Crown grant" means any of the instruments referred to in section 5, a plan referred to in section 7, a notification within the meaning of the *Territorial Lands Act* or any other instrument by which federal real property may be granted;

"department"

"department" means

(a) a department named in Schedule I to the *Financial Administration Act*,

(b) a division or branch of the public service of Canada named in Schedule I.1 to that Act,

(b.1) a commission under the *Inquiries Act* designated as a department for the purposes of the *Financial Administration Act*, and

(c) a departmental corporation as defined in section 2 of the *Financial Administration Act*;

"federal real property"

"federal real property" means real property belonging to Her Majesty, and includes any real property of which Her Majesty has the power to dispose;

"head of mission"

"head of mission", in relation to real property in a country outside Canada, means a person described in

subsection 13(1) of the *Department of Foreign Affairs and International Trade Act* who represents Canada in that country;

"Her Majesty"

"Her Majesty" means Her Majesty in right of Canada;

"interest"

"interest", in relation to land, means a lease, easement, servitude or any other estate, right, title or interest in or to the land, and includes the rights of a lessee therein;

"licence"

"licence" means any right of use or occupation of real property other than an interest in land;

"Minister"

"Minister", in relation to a department, means the Minister who, under the *Financial Administration Act*, is the appropriate Minister with respect to that department;

"real property"

"real property" means land whether within or outside Canada, including mines and minerals, and buildings, structures, improvements and other fixtures on, above or below the surface of the land, and includes an interest therein.

S.C. 1992, c. 1, s. 157;

S.C. 1995, c. 5, s. 26.

DELEGATION

Authorization of officials

3. Any Minister may authorize in writing an officer of the Minister's department or of any other department, or any head of mission, to exercise on behalf of that Minister any power given by or under this Act to that Minister, including the power to sign an instrument.

DISPOSITIONS AND LICENCES

Prohibition

4. Subject to any other Act, no sale, lease or other disposition of federal real property shall be made and no licence shall be given in respect of federal real property except in accordance with this Act.

GRANTS AND INSTRUMENTS

Letters patent and instruments of grant

5. (1) Federal real property may be granted

- (a) by letters patent under the Great Seal; or
- (b) by an instrument of grant, in a form satisfactory to the Minister of Justice, stating that it has the same force and effect as if it were letters patent.

Instruments under laws of general application

(2) Federal real property within Canada may, at the discretion of the Minister of Justice, be granted by any instrument, by which, under the laws in force in the province in which the property is situated, real property may be transferred by a private person.

Leases

(4) A leasehold estate in federal real property within Canada may also be granted by a lease that is not an instrument referred to in subsection (1), whether or not it is an instrument by which real property in a province may be transferred by a private person.

Execution of instruments

(5) An instrument referred to in this section granting federal real property, other than letters patent, shall be signed by the Minister having the administration of the property.

Idem

(6) An instrument referred to in paragraph (1)(b), or an instrument referred to in subsection (2) other than an instrument granting a leasehold estate, shall be countersigned by the Minister of Justice.

Effect of instrument of grant

(7) An instrument referred to in paragraph (1)(b) has the same force and effect as if the instrument were letters patent under the Great Seal.

Execution of licences

6. A licence in respect of federal real property shall be signed by the Minister having the administration of the property.

Plans

7. (1) Where under the laws of Canada or a province a plan may operate as an instrument granting, dedicating, transferring or conveying real property for a road, utility, park or other public purpose, the use of such a plan in relation to any federal real property may be authorized by the same authority that may authorize the grant, dedication, transfer or conveyance of that property.

Execution

(2) A plan referred to in subsection (1) relating to any federal real property shall be signed by the Minister having the administration of the property, and countersigned by the Minister of Justice.

Delivery required

8. (1) Subject to a contrary intention expressed in any instrument, the rule of law that a grant of federal real property by letters patent requires no delivery to take effect is hereby abrogated.

Time of taking effect

(2) Every grant of federal real property by letters patent or by an instrument referred to in paragraph 5(1)(b) shall take effect in accordance with the provisions thereof or, if there is no provision for its taking effect, shall take effect,

- (a) where the letters patent are or the instrument is delivered on terms or subject to conditions, on their satisfaction or removal; and
- (b) in any other case, on delivery of the letters patent or the instrument.

Words of limitation

9. Where under the laws of a province an instrument transferring real property without words of limitation operates as an absolute transfer of all the transferor's interest in the real property, a grant of federal real property in that province by letters patent or by an instrument referred to in paragraph 5(1)(b) operates as a conveyance of a fee simple or equivalent estate in the property although no words of limitation are used in the instrument, if Her Majesty has power to grant such an estate in the property and no contrary intention is expressed in the instrument.

Grants to Her Majesty

10. Her Majesty may grant federal real property to Herself.

Transfers of administration and control

11. (1) An instrument transferring administration and control of federal real property to Her Majesty in any right other than Canada pursuant to regulations made under paragraph 16(2)(e) shall be signed by the Minister having the administration of the property and countersigned by the Minister of Justice.

Idem

(2) A grant, vesting order or other conveyancing instrument in favour of Her Majesty in respect of any real property belonging to Her Majesty in any right other than Canada results, on its acceptance, in Her Majesty having administration and control of the property.

Restrictive covenants

12. A person who holds a lease of any real property from Her Majesty or an interest derived from such a lease, or who has a right to use or occupy any federal real property, may not, without the consent of the Governor in Council, grant or agree to any covenant restricting or controlling the use of the property except in favour of

- (a) Her Majesty;
- (b) any person through whom that interest or right was derived; or
- (c) in the case of a person holding such a lease or interest, any subtenant or licensee of that person.

APPLICATION OF OTHER LAWS

Acquisition under provincial Act

13. Except as expressly authorized by or under an Act of Parliament, no person acquires any federal real property by virtue of a provincial Act.

No title by prescription

14. No person acquires any federal real property by prescription.

MINISTER OF JUSTICE

Powers of Minister of Justice

15. (1) The Minister of Justice may, for purposes of the acquisition or disposition of, or any dealing with, any real property, on behalf of Her Majesty,

- (a) determine the type of instrument to be used therefor and settle and approve the form and legal content of any Crown grant or other instrument;

Regulations

(2) The Governor in Council may, on the recommendation of the Minister of Justice and the Treasury Board, make regulations respecting

- (a) the referral of specified classes of transactions concerning real property within or outside Canada to the Minister of Justice for settlement and approval of the form and legal content of instruments or for other purposes; and
- (b) the establishment and operation of a depository for the deposit of copies of instruments relating to federal real property other than instruments issued under the Great Seal.

AUTHORITY FOR DISPOSITIONS, ACQUISITIONS
AND ADMINISTRATIVE TRANSFERS*Powers of Governor in Council*

16. (1) Notwithstanding any regulations made under subsection (2), the Governor in Council may, on the recommendation of the Treasury Board, in accordance with such terms and subject to such conditions and restrictions as the Governor in Council considers advisable,

- (a) authorize the sale, lease or other disposition of any federal real property for which sale, lease or disposition there is no provision in or under any other Act;
- (b) authorize the purchase, lease or other acquisition of any real property on behalf of Her Majesty;
- (c) authorize the giving or acquisition on behalf of Her Majesty of any licence or the transfer between Ministers of administrative responsibility in relation to any licence acquired by Her Majesty;
- (d) authorize, on behalf of Her Majesty, a surrender of any lease of which Her Majesty is the tenant or the relinquishment of any licence of which Her Majesty is the licensee, or the acceptance of the surrender of any lease of which Her Majesty is the landlord or the acceptance of the relinquishment of any licence of which Her Majesty is the licensor;
- (e) transfer to Her Majesty in any right other than Canada administration and control of the entire or any lesser interest of Her Majesty in any federal real property, either in perpetuity or for any lesser term;
- (f) accept, on behalf of Her Majesty, the transfer of administration and control of real property from Her Majesty in any right other than Canada, including any such transfer made by grant, vesting order or other conveyancing instrument;

(g) notwithstanding any other Act, transfer the administration of any federal real property from one Minister to another, from a Minister to an agent corporation or from an agent corporation to a Minister;

(h) authorize a grant of any federal real property, the title to which is vested in Her Majesty, to a corporation that has the administration of the property or to any person designated by that corporation;

(i) authorize the grant by Her Majesty of any federal real property to Herself;

(j) dedicate or authorize the dedication, for so long as the dedication or authorization remains unrevoked, of any federal real property for a road, park or other public purpose, either in perpetuity or for any lesser term; or

(k) authorize the acceptance or the release or discharge, in whole or in part, on behalf of Her Majesty, of any security, by way of mortgage or otherwise, in connection with any transaction authorized under this Act,

Regulations

(2) The Governor in Council may, on the recommendation of the Treasury Board, make regulations

(a) respecting the sale, lease or other disposition of federal real property for which sale, lease or disposition there is no provision in or under any other Act;

(b) respecting the purchase, lease or other acquisition of real property on behalf of Her Majesty;

(c) respecting the giving and acquisition of licences on behalf of Her Majesty and the transfer between Ministers of administrative responsibility in relation to licences acquired by Her Majesty;

(d) respecting the surrender of leases of which Her Majesty is the tenant and the relinquishment of licences of which Her Majesty is the licensee, and the acceptance of surrenders of leases of which Her Majesty is the landlord and the acceptance of relinquishments of licences of which Her Majesty is the licensor;

(e) respecting the transfer to Her Majesty in any right other than Canada, by instrument satisfactory to the Minister of Justice, of administration and control of the entire or any lesser interest of Her Majesty in federal real property, either in perpetuity or for any lesser term;

(f) respecting the acceptance, on behalf of Her Majesty, of transfers of administration and control satisfactory to the Minister of Justice of real

property from Her Majesty in any right other than Canada, including such transfers made by grant, vesting order or other conveyancing instrument;

(g) respecting the transfer of the administration of federal real property by one Minister to another, by a Minister to an agent corporation or by an agent corporation to a Minister;

(h) respecting the acceptance or the release or discharge, in whole or in part, on behalf of Her Majesty, of any security, by way of mortgage or otherwise, in connection with transactions authorized under regulations made pursuant to this subsection;

(i) authorizing the provision of utilities and other services on or from federal real property and the imposition of fees, charges and rates for those services;

(j) imposing fees for the provision of copies of maps, plans, field notes, documents, papers and other records pertaining to federal real property, for the preparation of documents evidencing a sale, lease or other disposition of federal real property and for the deposit in a department of documents relating to federal real property; and

Exercise of powers

(3) A Minister may authorize in writing any other Minister to exercise on his behalf any power in relation to any transaction that has been or may be authorized under subsection (1) or under regulations made pursuant to subsection (2).

Limits and restrictions

(4) The Treasury Board may, generally or with respect to any Minister, establish financial or other limits, restrictions or requirements respecting any transaction or class of transactions authorized under regulations made pursuant to subsection (2).

Saving

(5) No limit, restriction or requirement established under subsection (4) and no regulation or direction made under section 41 of the *Financial Administration Act* derogates from the authority of a Minister under this Act to enter into a transaction or affects the validity of a transaction entered into pursuant to such authority.

S.C. 1994, c. 26, s. 31.

Territorial lands

17. (1) Notwithstanding section 3 of the *Territorial Lands Act*, sections 13 to 16 and 19 of that Act apply in respect of all federal real property in the Yukon Territory and the Northwest Territories.

Administration of reserved property

(2) Where any fed real property, either in perpetuity or for any lesser term; real property in the Yukon Territory or the Northwest Territories is granted in fee simple under this Act, the Minister of Indian Affairs and Northern Development has the administration of such property and rights as are reserved from the grant by virtue of subsection (1).

Idem

(3) Where an interest other than the fee simple in any federal real property in the Yukon Territory or the Northwest Territories that is under the administration of a Minister is granted under this Act, that Minister retains the administration of such property and rights as are reserved from the grant by virtue of subsection (1).

Administration by Minister

18. (1) Federal real property purchased, leased or otherwise acquired for the purposes of a Minister's department, including any such property acquired by way of a transfer of administration and control from Her Majesty in any right other than Canada, is under the administration of that Minister for the purposes of that department.

Idem

(2) Where a Minister has, in relation to a department, by or under any Act or any order of the Governor in Council, the "administration", "management", "administration and control", "control, management and administration", "management, charge and direction" or another similarly expressed power in relation to any federal real property, that property is under the administration of that Minister for the purposes of that department.

Continuity of administration

(3) Federal real property that is under the administration of a Minister for the purposes of a department remains under the administration of that Minister for the purposes of that department until a change of administration is effected pursuant to section 16 or on the authority or direction of the Governor in Council.

Consequences of administration

(4) Where any federal real property is under the administration of a Minister for the purposes of a department, that Minister has the right to the use of that property for the purposes of that department, subject to any conditions or restrictions imposed by or under this or any other Act or any order of the Governor in Council, but is not entitled by reason only

of the administration of the property to dispose of it or to retain the proceeds of its use or disposition.

For greater certainty

(5) For greater certainty, a Minister may have the administration of federal real property for the purposes of any department of which that Minister is the Minister.

Administration by corporation

(6) Where, by or under any Act or any order of the Governor in Council, a corporation has the right to the use of any federal real property the title to which is vested in Her Majesty, by the use of any expression mentioned in subsection (2) or any similar expression, and no Minister has the administration of the property, the corporation has, for the purposes of paragraphs 16(1)(g) and (h) and (2)(g), the administration of that property.

GENERAL

Defence lands vested in Her Majesty

19. (1) Such of the real property mentioned in the schedule to the *Ordnance and Admiralty Lands Act*, chapter 115 of the Revised Statutes of Canada, 1927, as was on June 1, 1950 vested in Her Majesty, by whatever mode of conveyance it was acquired or taken and whether in fee, for life, for years or otherwise, and all the appurtenances thereof, unless disposed of since that date, continues absolutely vested in Her Majesty for the purposes of Canada in the same manner and to the same extent as on June 1, 1950.

Alienation of defence lands

(2) Until the Governor in Council otherwise provides, federal real property that is declared by the Governor in Council to be necessary for the defence of Canada shall not be sold, alienated or otherwise disposed of, but the Governor in Council may authorize the lease or other use of such property as the Governor in Council thinks best for the advantage of Canada.

Deeming

(3) Lands that on June 1, 1950 were lands in class one under the *Ordnance and Admiralty Lands Act*, chapter 115 of the Revised Statutes of Canada, 1927, shall be deemed to have been declared by the Governor in Council to be necessary for the defence of Canada.

Grants to deceased persons not void

20. A Crown grant that is issued to or in the name of a person who is deceased is not for that reason void, but the title to the real property intended to be granted

vests in the heirs, assigns, devisees or other legal representatives of the deceased person according to the laws in force in the province in which the real property is situated as if the grant had issued to or in the name of the deceased person during the person's lifetime.

Correction of defective grants

21. Where a Crown grant contains a clerical error, misnomer or incorrect or defective description, or where there is in a Crown grant an omission of the conditions of the grant, or where a Crown grant is defective for any other reason, the Minister of Justice may, if there is no adverse claim, direct the defective grant to be cancelled and a correct grant to be issued in lieu thereof, and the correct grant so issued has the same force and effect as if issued on the date of the cancelled grant.

Relief from inconsistent transactions

22. (1) Where, through error, inconsistent transactions relating to the same federal real property have been entered into, the Governor in Council may

(a) order a new grant of federal real property, of such value as the Governor in Council considers just and equitable, to be made to any person deprived as a result of the error;

(b) make a new transfer of administration and control of federal real property, of such value as the Governor in Council considers just and equitable, to Her Majesty in any right other than Canada to provide relief from the error;

(c) in the case of a sale, lease or licence, order a refund to be made of any money paid on account of the sale, lease or licence, with interest at a rate established in the manner prescribed by the Governor in Council; or

(d) where the property has passed from the original holder or has been improved before the discovery of the error, or where an original Crown grant was a free grant, order a new grant of such federal real property as the Governor in Council considers just and equitable to be made to the original holder.

(2) No claim shall be made for relief under subsection (1) later than one year after the day on which the person making the claim becomes aware of the error.

Coming into Force

Federal Real Property Act
S.C. 1991, c. 50; RA 17.12.91
CIF 15.09.1992 (SI/92-151).

The above excerpts of the *Federal Real Property Act* are from chapter 50 of the *Statutes of Canada, 1991*, as amended by

- S.C. 1992, c. 1, s. 157; RA 28.02.92; CIF 15.09.92 (s. 157).
- S.C. 1994, c. 26, s. 31; RA 23.06.94.
- S.C. 1995, c. 5, s. 26; RA 26.03.95; CIF 13.05.95 (SI/95-65).

Indian Act

An Act respecting Indians

Excerpts from

Chapter I-5, R.S.C. 1985

As amended

NOTE

Pursuant to SOR/89-507, sections 18 to 29, 36 to 41, 53 to 60, 89 to 93 of the *Indian Act* do not apply to any Sechelt lands that are registered pursuant to section 28 of the *Sechelt Indian Band Self-Government Act*.

SHORT TITLE*Short title*

1. This Act may be cited as the *Indian Act*.

(b) in the case of a band to which section 74 does not apply, the council chosen according to the custom of the band, or, where there is no council, the chief of the band chosen according to the custom of the band;

INTERPRETATION*Definitions*

2. (1) In this Act,

"band"

"band" means a body of Indians

(a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after September 4, 1951,

(b) for whose use and benefit in common, moneys are held by Her Majesty, or

(c) declared by the Governor in Council to be a band for the purposes of this Act;

"Band List"

"Band List" means a list of persons that is maintained under section 8 by a band or in the Department;

"child"

"child" includes a child born in or out of wedlock, a legally adopted child and a child adopted in accordance with Indian custom;

"council of the band"

"council of the band" means

(a) in the case of a band to which section 74 applies, the council established pursuant to that section,

"Department"

"Department" means the Department of Indian Affairs and Northern Development;

"designated lands"

"designated lands" means a tract of land or any interest therein the legal title to which remains vested in Her Majesty and in which the band for whose use and benefit it was set apart as a reserve has, otherwise than absolutely, released or surrendered its rights or interests, whether before or after the coming into force of this definition;

"elector"

"elector" means a person who

(a) is registered on a Band List,

(b) is of the full age of eighteen years, and

(c) is not disqualified from voting at band elections;

"estate"

"estate" includes real and persona] property and any interest in land;

"Indian"

"Indian" means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian;

"Indian moneys"

"Indian moneys" means all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands;

"Indian Register"

"Indian Register" means the register of persons that is maintained under section 5;

"member of a band"

"member of a band" means a person whose name appears on a Band List or who is entitled to have his name appear on a Band List;

"mentally incompetent Indian"

"mentally incompetent Indian" means an Indian who, pursuant to the laws of the province in which he resides, has been found to be mentally defective or incompetent for the purposes of any laws of that province providing for the administration of estates of mentally defective or incompetent persons;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"registered"

"registered" means registered as an Indian in the Indian Register;

"Registrar"

"Registrar" means the officer in the Department who is in charge of the Indian Register and the Band Lists maintained in the Department;

"reserve"

"reserve"

- (a) means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band, and
- (b) except in subsection 18(2), sections 20 to 25, 28, 36 to 38, 42, 44, 46, 48 to 51, 58 and 60 and the regulations made under any of those provisions, includes designated lands;

"superintendent"

"superintendent" includes a commissioner, regional supervisor, Indian superintendent, assistant Indian superintendent and any other person declared by the Minister to be a superintendent for the purposes of this Act, and with reference to a band or a reserve, means the superintendent for that band or reserve;

"surrendered lands"

"surrendered lands" means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.

Definition of "band"

(2) The expression "band", with reference to a reserve or surrendered lands, means the band for whose use and benefit the reserve or the surrendered lands were set apart.

Exercise of powers conferred on band or council

(3) Unless the context otherwise requires or this Act otherwise provides,

- (a) a power conferred on a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the electors of the band; and
- (b) a power conferred on the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened.

R.S.C. 1985, c. 32 (1st Supp.), s. 1;

R.S.C. 1985, c. 17 (4th Supp.), s. 1.

ADMINISTRATION**Minister to administer Act**

3. (1) This Act shall be administered by the Minister, who shall be the superintendent general of Indian affairs.

Authority of Deputy Minister and chief officer

(2) The Minister may authorize the Deputy Minister of Indian Affairs and Northern Development or the chief officer in charge of the branch of the Department relating to Indian affairs to perform and exercise any of the duties, powers and functions that may be or are required to be performed or exercised by the Minister under this Act or any other Act of Parliament relating to Indian affairs.

APPLICATION OF ACT**Application of Act**

4. (1) A reference in this Act to an Indian does not include any person of the race of aborigines commonly referred to as Inuit.

Act may be declared inapplicable

(2) The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 5 to 14.3 or sections 37 to 41, shall not apply to

- (a) any Indians or any group or band of Indians, or
- (b) any reserve or any surrendered lands or any part thereof,

and may by proclamation revoke any such declaration.

Authority confirmed for certain cases

(2.1) For greater certainty, and without restricting the generality of subsection (2), the Governor in Council shall be deemed to have had the authority to make any declaration under subsection (2)

that the Governor in Council has made in respect of section 11, 12 or 14, or any provision thereof, as each section or provision read immediately prior to April 17, 1985.

Certain sections inapplicable to Indians living off reserves

(3) Sections 114 to 122 and, unless the Minister otherwise orders, sections 42 to 52 do not apply to or in respect of any Indian who does not ordinarily reside on a reserve or on lands belonging to Her Majesty in right of Canada or a province.

R.S.C. 1985, c. 32 (1st Supp.), s. 2.

Application of certain provisions to all band members

4.1 A reference to an Indian in any of the following provisions shall be deemed to include a reference to any person whose name is entered in a Band List and who is entitled to have it entered therein; the definitions "band", "Indian moneys" and "mentally incompetent Indian" in section 2, subsections 4(2) and (3) and 18(2), sections 20 and 22 to 25, subsections 31(1) and (3) and 35(4), sections 51, 52, 52.2 and 52.3, subsections 58(3) and 61(1), sections 63 and 65, subsections 66(2) and 70(1) and (4), section 71, paragraphs 73(g) and (h), subsection 74(4), section 84, paragraph 87(1)(a), section 88, subsection 89(1) and paragraph 107(b).

added, R.S.C. 1985, c. 32 (1st Supp.), s.3;
R.S.C. 1985, c. 48 (4th Supp.), s.1.

Indian Register

Indian Register

5. (1) There shall be maintained in the Department an Indian Register in which shall be recorded the name of every person who is entitled to be registered as an Indian under this Act.

Existing Indian Register

(2) The names in the Indian Register immediately prior to April 17, 1985 shall constitute the Indian Register on April 17, 1985.

Deletions and additions

(3) The Registrar may at any time add to or delete from the Indian Register the name of any person who, in accordance with this Act, is entitled or not entitled, as the case may be, to have his name included in the Indian Register.

Date of change

(4) The Indian Register shall indicate the date on which each name was added thereto or deleted therefrom.

Application for registration

(5) The name of a person who is entitled to be registered is not required to be recorded in the Indian Register unless an application for registration is made to the Registrar.

R.S.C. 1985, c. 32 (1st Supp.), s. 4.

Band Lists

Band Lists

8. There shall be maintained in accordance with this Act for each band a Band List in which shall be entered the name of every person who is member of that band.

R.S.C. 1985, c. 32 (1st Supp.), s. 4.

Band Lists maintained in Department

9. (1) Until such time as a band assumes control of its Band List, the Band List of that band shall be maintained in the Department by the Registrar.

Existing Band Lists

(2) The names in a Band List of a band immediately prior to April 17, 1985 shall constitute the Band List of that band on April 17, 1985.

Deletions and additions

(3) The Registrar may at any time add to or delete from a Band List maintained in the Department the name of any person who, in accordance with this Act, is entitled or not entitled, as the case may be, to have his name included in that List.

Date of change

(4) A Band List maintained in the Department shall indicate the date on which each name was added thereto or deleted therefrom.

Application for entry

(5) The name of a person who is entitled to have his name entered in a Band List maintained in the Department is not required to be entered therein unless an application for entry therein is made to the Registrar.

R.S.C. 1985, c. 32 (1st Supp.), s. 4.

Band control of membership

10. (1) A band may assume control of its own membership if it establishes membership rules for itself in writing in accordance with this section and if, after the band has given appropriate notice of its intention to assume control of its own membership, a majority of the electors of the band gives its consent to the band's control of its own membership.

Membership rules

(2) A band may, pursuant to the consent of a majority of the electors of the band,

(a) after it has given appropriate notice of its intention to do so, establish membership rules for itself; and

(b) provide for a mechanism for reviewing decisions on membership.

Band to maintain Band List

(9) A band shall maintain its own Band List from the date on which a copy of the Band List is received by the band under paragraph (7)(b), and, subject to section 13.2, the Department shall have no further responsibility with respect to that Band List from that date.

Deletions and additions

(10) A band may at any time add to or delete from a Band List maintained by it the name of any person who, in accordance with the membership rules of the band, is entitled or not entitled, as the case may be, to have his name included in that list.

Date of change

(11) A Band List maintained by a band shall indicate the date on which each name was added thereto or deleted therefrom.

R.S.C. 1985, c. 32 (1st Supp.), s. 4.

*Inquiries**Inquiries relating to Indian Register or Band Lists*

14.1 The Registrar shall, on inquiry from any person who believes that he or any person he represents is entitled to have his name included in the Indian Register or a Band List maintained in the Department, indicate to the person making the inquiry whether or not that name is included therein.

added, R.S.C. 1985, c. 32 (1st Supp.), s. 4.

*Payments in Respect of Persons Ceasing to be Band Members**Transferred member's interest*

16. (2) A person who ceases to be a member of one band by reason of becoming a member of another band is not entitled to any interest in the lands or moneys held by Her Majesty on behalf of the former band, but is entitled to the same interest in common in lands and moneys held by Her Majesty on behalf of the latter band as other members of that band.

R.S.C. 1985, c. 32 (1st Supp.), s. 6.

*New Bands**Minister may constitute new bands*

17. (1) The Minister may, whenever he considers it desirable,

(a) amalgamate bands that, by a vote of a majority of their electors, request to be amalgamated; and

(b) constitute new bands and establish Band Lists with respect thereto from existing Band Lists, or from the Indian Register, if requested to do so by persons proposing to form the new bands.

Division of reserves and funds

(2) Where pursuant to subsection (1) a new band has been established from an existing band or any part thereof, such portion of the reserve lands and funds of the existing band as the Minister determines shall be held for the use and benefit of the new band.

No protest

(3) No protest may be made under section 14.2 in respect of the deletion from or the addition to a Band List consequent on the exercise by the Minister of any of the Minister's powers under subsection (1).

R.S.C. 1985, c. 32 (1st Supp.), s. 7.

RESERVES*Reserves to be held for use and benefit of Indians*

18. (1) Subject to this Act, reserves are held by Her Majesty for the use and benefit of the respective bands for which they were set apart, and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which lands in a reserve are used or are to be used is for the use and benefit of the band.

Use of reserves for schools, etc.

(2) The Minister may authorize the use of lands in a reserve for the purpose of Indian schools, the administration of Indian affairs, Indian burial grounds, Indian health projects or, with the consent of the council of the band, for any other purpose for the general welfare of the band, and may take any lands in a reserve required for those purposes, but where an individual Indian, immediately prior to the taking, was entitled to the possession of those lands, compensation for that use shall be paid to the Indian, in such amount as may be agreed between the Indian and the Minister, or, failing agreement, as may be determined in such manner as the Minister may direct.

Children of band members

18.1 A member of a band who resides on the reserve of the band may reside there with his dependent children or any children of whom the member has custody.

added, R.S.C. 1985, c. 32 (1st Supp.), s. 8.

Surveys and subdivisions

19. The Minister may

- (a) authorize surveys of reserves and the preparation of plans and reports with respect thereto;
- (b) divide the whole or any portion of a reserve into lots or other subdivisions; and
- (c) determine the location and direct the construction of roads in a reserve.

*Possession of lands in reserves**Possession of lands in a reserve*

20. (1) No Indian is lawfully in possession of land in a reserve unless, with the approval of the Minister, possession of the land has been allotted to him by the council of the band.

Certificate of Possession

(2) The Minister may issue to an Indian who is lawfully in possession of land in a reserve a certificate, to be called a Certificate of Possession, as evidence of his right to possession of the land described therein.

Location tickets issued under previous legislation

(3) For the purposes of this Act, any person who, on September 4, 1951, held a valid and subsisting Location Ticket issued under *The Indian Act, 1880*, or any statute relating to the same subject-matter, shall be deemed to be lawfully in possession of the land to which the location ticket relates and to hold a Certificate of Possession with respect thereto.

Temporary possession

(4) Where possession of land in a reserve has been allotted to an Indian by the council of the band, the Minister may, in his discretion, withhold his approval and may authorize the Indian to occupy the land temporarily and may prescribe the conditions as to use and settlement that are to be fulfilled by the Indian before the Minister approves of the allotment.

Certificate of Occupation

(5) Where the Minister withholds approval pursuant to subsection (4), he shall issue a Certificate of Occupation to the Indian, and the Certificate entitles the Indian, or those claiming possession by devise or

descent, to occupy the land in respect of which it is issued for a period of two years from the date thereof.

Extension and approval

(6) The Minister may extend the term of a Certificate of Occupation for a further period not exceeding two years, and may, at the expiration of any period during which a Certificate of Occupation is in force

- (a) approve the allotment by the council of the band and issue a Certificate of Possession if in his opinion the conditions as to use and settlement have been fulfilled; or
- (b) refuse approval of the allotment by the council of the band and declare the land in respect of which the Certificate of Occupation was issued to be available for re-allotment by the council of the band.

Register

21. There shall be kept in the Department a register, to be known as the Reserve Land Register, in which shall be entered particulars relating to Certificates of Possession and Certificates of Occupation and other transactions respecting lands in a reserve.

Improvements on lands

22. Where an Indian who is in possession of lands at the time they are included in a reserve made permanent improvements thereon before that time, he shall be deemed to be in lawful possession of those lands at the time they are included.

Compensation for improvements

23. An Indian who is lawfully removed from lands in a reserve on which he has made permanent improvements may, if the Minister so directs, be paid compensation in respect thereof in an amount to be determined by the Minister, either from the person who goes into possession or from the funds of the band, at the discretion of the Minister.

Transfer of possession

24. An Indian who is lawfully in possession of lands in a reserve may transfer to the band or another member of the band the right to possession of the land, but no transfer or agreement for the transfer of the right to possession of lands in a reserve is effective until it is approved by the Minister.

Indian ceasing to reside on reserve

25. (1) An Indian who ceases to be entitled to reside on a reserve may, within six months or such further period as the Minister may direct, transfer to the band or another member of the band the right to possession of any lands in the reserve of which he was lawfully in possession.

When right of possession reverts

(2) Where an Indian does not dispose of his right of possession in accordance with subsection (1), the right to possession of the land reverts to the band, subject to the payment to the Indian who was lawfully in possession of the land, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

Correction of Certificate or Location Tickets

26. Whenever a Certificate of Possession or Occupation or a Location Ticket issued under *The Indian Act, 1880*, or any statute relating to the same subject-matter was, in the opinion of the Minister, issued to or in the name of the wrong person, through mistake, or contains any clerical error or misnomer or wrong description of any material fact therein, the Minister may cancel the Certificate or Location Ticket and issue a corrected Certificate in lieu thereof.

Cancellation of Certificates or Location Tickets

27. The Minister may, with the consent of the holder thereof, cancel any Certificate of Possession or Occupation or Location Ticket referred to in section 26, and may cancel any Certificate of Possession or Occupation or Location Ticket that in his opinion was issued through fraud or in error.

Grants, etc., of reserve lands void

28. (1) Subject to subsection (2), any deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which a band or member of a band purports to permit a person other than a member of that band to occupy or use a reserve or to reside or otherwise exercise any rights on a reserve is void.

Minister may issue permits

(2) The Minister may by permit in writing authorize any person for a period not exceeding one year, or with the consent of the council of the band for any longer period, to occupy or use a reserve or to reside or otherwise exercise rights on a reserve.

Exemption from seizure

29. Reserve lands are not subject to seizure under legal process.

*Trespass on reserves**Penalty for trespass*

30. A person who trespasses on a reserve is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month or to both.

Information by Attorney General

31. (1) Without prejudice to section 30, where an Indian or a band alleges that persons other than Indians are or have been

- (a) unlawfully in occupation or possession of,
- (b) claiming adversely the right to occupation or possession of, or
- (c) trespassing on

a reserve or part of a reserve, the Attorney General of Canada may exhibit an information in the Federal Court claiming, on behalf of the Indian or band, the relief or remedy sought.

Information deemed action by Crown

(2) An information exhibited under subsection (1) shall, for all purposes of the *Federal Court Act*, be deemed to be a proceeding by the Crown within the meaning of that Act.

Existing remedies preserved

(3) Nothing in this section shall be construed to impair, abridge or otherwise affect any right or remedy that, but for this section, would be available to Her Majesty or to an Indian or a band.

*Lands taken for public purposes**Taking of lands by local authorities*

35. (1) Where by an Act of Parliament or a provincial legislature Her Majesty in right of a province, a municipal or local authority or a corporation is empowered to take or to use lands or any interest therein without the consent of the owner, the power may, with the consent of the Governor in Council and subject to any terms that may be prescribed by the Governor in Council, be exercised in relation to lands in a reserve or any interest therein.

Procedure

(2) Unless the Governor in Council otherwise directs, all matters relating to compulsory taking or using of lands in a reserve under subsection (1) are governed by the statute by which the powers are conferred.

Grant in lieu of compulsory taking

(3) Whenever the Governor in Council has consented to the exercise by a province, a municipal or local authority or a corporation of the powers referred to in subsection (1), the Governor in Council may, in lieu of the province, authority or corporation taking or using the lands without the consent of the owner, authorize a transfer or grant of the lands to the province, authority or corporation, subject to any terms that may be prescribed by the Governor in Council.

Payment

(4) Any amount that is agreed on or awarded in respect of the compulsory taking or using of land under this section or that is paid for a transfer or grant of land pursuant to this section shall be paid to the Receiver General for the use and benefit of the band or for the use and benefit of any Indian who is entitled to compensation or payment as a result of the exercise of the powers referred to in subsection (1).

*Special reserves**Reserves not vested in the Crown*

36. Where lands have been set apart for the use and benefit of a band and legal title thereto is not vested in Her Majesty, this Act applies as though the lands were a reserve within the meaning of this Act.

*Surrenders and designations**Sales*

37. (1) Lands in a reserve shall not be sold nor title to them conveyed until they have been absolutely surrendered to Her Majesty pursuant to subsection 38(1) by the band for whose use and benefit in common the reserve was set apart.

Other transactions

(2) Except where this Act otherwise provides, lands in a reserve shall not be leased nor an interest in them granted until they have been surrendered to Her Majesty pursuant to subsection 38(2) by the band for whose use and benefit in common the reserve was set apart.

R.S.C. 1985, c. 17 (4th Supp.), s. 2.

Surrender to Her Majesty

38. (1) A band may absolutely surrender to Her Majesty, conditionally or unconditionally, all of the rights and interests of the band and its members in all or part of a reserve.

Designation

(2) A band may, conditionally or unconditionally, designate, by way of a surrender to Her Majesty that is not absolute, any right or interest of the band and its members in all or part of a reserve, for the purpose of its being leased or a right or interest therein being granted.

R.S.C. 1985, c. 17 (4th Supp.), s. 2.

How lands surrendered or designated

39. (1) An absolute surrender or a designation is void unless

- (a) it is made to Her Majesty;
- (b) it is assented to by a majority of the electors of the band
 - (i) at a general meeting of the band called by the council of the band,
 - (ii) at a special meeting of the band called by the Minister for the purpose of considering a proposed absolute surrender or designation, or
 - (iii) by a referendum as provided in the regulations; and
- (c) it is accepted by the Governor in Council.

Minister may call meeting or referendum

(2) Where a majority of the electors of a band did not vote at a meeting or referendum called pursuant to subsection (1), the Minister may, if the proposed absolute surrender or designation was assented to by a majority of the electors who did vote, call another meeting by giving thirty days notice thereof or another referendum as provided in the regulations.

Assent of band

(3) Where a meeting is called pursuant to subsection (2) and the proposed absolute surrender or designation is assented to at the meeting or referendum by a majority of the electors voting, the surrender or designation shall be deemed, for the purposes of this section, to have been assented to by a majority of the electors of the band.

Secret ballot

(4) The Minister may, at the request of the council of the band or whenever he considers it advisable, order that a vote at any meeting under this section shall be by secret ballot.

Officials required

(5) Every meeting under this section shall be held in the presence of the superintendent or some other officer of the Department designated by the Minister.

R.S.C. 1985, c. 17 (4th Supp.), s. 3.

Certification

40. A proposed absolute surrender or designation that is assented to by the band in accordance with section 39 shall be certified on oath by the superintendent or other officer who attended the meeting and by the chief or a member of the council of the band, and then submitted to the Governor in Council for acceptance or refusal.

R.S.C. 1985, c. 17 (4th Supp.), s. 4.

Effect of surrenders and designations

41. An absolute surrender or a designation shall be deemed to confer all rights that are necessary to enable Her Majesty to carry out the term of the surrender or designation.

R.S.C. 1985, c. 17 (4th Supp.), s. 4.

DESCENT OF PROPERTY

Powers of Minister with respect to property of deceased Indians

42. (1) Subject to this Act, all jurisdiction and authority in relation to matters and causes testamentary, with respect to deceased Indians, is vested exclusively in the Minister and shall be exercised subject to and in accordance with regulations of the Governor in Council.

Regulations

(2) The Governor in Council may make regulations providing that a deceased Indian who at the time of his death was in possession of land in a reserve shall, in such circumstances and for such purposes as the regulations prescribe, be deemed to have been at the time of his death lawfully in possession of that land.

Application of regulations

(3) Regulations made under subsection (2) may be made applicable to estates of Indians who died before, on or after September 4, 1951.

Particular powers

43. Without restricting the generality of section 42, the Minister may

(a) appoint executors of wills and administrators of estates of deceased Indians, remove them and appoint others in their stead;

(b) authorize executors to carry out the terms of the wills of deceased Indians;

(c) authorize administrators to administer the property of Indians who die intestate;

(d) carry out the terms of wills of deceased Indians and administer the property of Indians who die intestate; and

(e) make or give any order, direction or finding that in his opinion it is necessary or desirable to make or give with respect to any matter referred to in section 42.

Courts may exercise jurisdiction with consent of Minister

44. (1) The court that would have jurisdiction if a deceased were not an Indian may, with the consent of the Minister, exercise, in accordance with this Act, the jurisdiction and authority conferred on the Minister by this Act in relation to testamentary matters and causes and any other powers, jurisdiction and authority ordinarily vested in that court.

Minister may refer a matter to the court

(2) The Minister may direct in any particular case that an application for the grant of probate of the will or letters of administration of a deceased shall be made to the court that would have jurisdiction if the deceased were not an Indian, and the Minister may refer to that court any question arising out of any will or the administration of any estate.

Orders relating to lands

(3) A court that is exercising any jurisdiction or authority under this section shall not without the consent in writing of the Minister enforce any order relating to real property on a reserve.

Wills

Indians may make wills

45. (1) Nothing in this Act shall be construed to prevent or prohibit an Indian from devising or bequeathing his property by will.

Form of will

(2) The Minister may accept as a will any written instrument signed by an Indian in which he indicates his wishes or intention with respect to the disposition of his property on his death.

Probate

(3) No will executed by an Indian is of any legal force or effect as a disposition of property until the Minister has approved the will or a court has granted probate thereof pursuant to this Act.

Minister may declare will void

46. (1) The Minister may declare the will of an Indian to be void in whole or in part if he is satisfied that

- (a) the will was executed under duress or undue influence;
- (b) the testator at the time of execution of the will lacked testamentary capacity;
- (c) the terms of the will would impose hardship on persons for whom the testator had a responsibility to provide;
- (d) the will purports to dispose of land in a reserve in a manner contrary to the interest of the band or contrary to this Act;
- (e) the terms of the will are so vague, uncertain or capricious that proper administration and equitable distribution of the estate of the deceased would be difficult or impossible to carry out in accordance with this Act; or
- (f) the terms of the will are against the public interest.

Where will declared void

(2) Where a will of an Indian is declared by the Minister or by a court to be wholly void, the person executing the will shall be deemed to have died intestate, and where the will is so declared to be void in part only, any bequest or devise affected thereby, unless a contrary intention appears in the will, shall be deemed to have lapsed.

*Distribution of property on intestacy***Surviving spouse's share**

48. (1) Where the net value of the estate of an intestate does not, in the opinion of the Minister, exceed seventy-five thousand dollars or such other amount as may be fixed by order of the Governor in Council, the estate shall go to the widow.

Idem

(2) Where the net value of the estate of an intestate, in the opinion of the Minister, exceeds seventy-five thousand dollars, or such other amount as may be fixed by order of the Governor in Council, seventy-five thousand dollars, or such other amount as may be fixed by order of the Governor in Council, shall go to the widow, and

(a) if the intestate left no issue, the remainder shall go to the widow,

(b) if the intestate left one child, one-half of the remainder shall go to the widow, and

(c) if the intestate left more than one child, one-third of the remainder shall go to the widow,

and where a child has died leaving issue and that issue is alive at the date of the intestate's death, the widow shall take the same share of the estate as if the child had been living at that date.

Where children not provided for

(3) Notwithstanding subsections (1) and (2),

(a) where in any particular case the Minister is satisfied that any children of the deceased will not be adequately provided for, he may direct that all or any part of the estate that would otherwise go to the widow shall go to the children; and

(b) the Minister may direct that the widow shall have the right, during her widowhood, to occupy any lands in a reserve that were occupied by her deceased husband at the time of his death.

Distribution to issue

(4) Where an intestate dies leaving issue, his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue.

Distribution to father and mother

(5) Where an intestate dies leaving no widow or issue, his estate shall go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor.

Distribution to brothers, sisters and their issue

(6) Where an intestate dies leaving no widow or issue or father or mother, his estate shall be distributed among his brothers and sisters in equal shares, and where any brother or sister is dead the children of the deceased brother or sister shall take the share their parent would have taken if living, but where the only persons entitled are children of deceased brothers and sisters, they shall take *per capita*.

Next-of-kin

(7) Where an intestate dies leaving no widow, issue, father, mother, brother or sister, and no children of any deceased brother or sister, his estate shall go to his next-of-kin.

Distribution among next-of-kin

(8) Where an estate goes to the next-of-kin, it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them, but in no case shall representation be admitted after brothers' and sisters'

children, and any interest in land in a reserve shall vest in Her Majesty for the benefit of the band if the nearest of kin of the intestate is more remote than a brother or sister.

Degrees of kindred

(9) For the purposes of this section, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree.

Descendants and relatives born after intestate's death

(10) Descendants and relatives of an intestate begotten before his death but born thereafter shall inherit as if they had been born in the lifetime of the intestate and had survived him.

Estate not disposed of by will

(11) All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate.

No dower or estate by curtesy

(12) No widow is entitled to dower in the land of her deceased husband dying intestate, and no husband is entitled to an estate by curtesy in the land of his deceased wife dying intestate, and there is no community of real or personal property situated in a reserve.

Definition of "widow"

(15) This section applies in respect of an intestate woman as it applies in respect of an intestate man, and for the purposes of this section "widow" includes "widower".

R.S.C. 1985, c. 32 (1st Supp.), s. 9;

R.S.C. 1985, c. 48 (4th Supp.), s. 2.

Devisee's entitlement

49. A person who claims to be entitled to possession or occupation of lands in a reserve by devise or descent shall be deemed not to be in lawful possession or occupation of those lands until the possession is approved by the Minister.

Non-resident of reserve

50. (1) A person who is not entitled to reside on a reserve does not by devise or descent acquire a right to possession or occupation of land in that reserve.

Sale by superintendent

(2) Where a right to possession or occupation of land in a reserve passes by devise or descent to a

person who is not entitled to reside on a reserve, that right shall be offered for sale by the superintendent to the highest bidder among persons who are entitled to reside on the reserve and the proceeds of the sale shall be paid to the devisee or descendant, as the case may be.

Unsold lands revert to band

(3) Where no tender is received within six months or such further period as the Minister may direct after the date when the right to possession or occupation of land is offered for sale under subsection (2), the right shall revert to the band free from any claim on the part of the devisee or descendant, subject to the payment, at the discretion of the Minister, to the devisee or descendant, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

Approval required

(4) The purchaser of a right to possession or occupation of land under subsection (2) shall be deemed not to be in lawful possession or occupation of the land until the possession is approved by the Minister.

MENTALLY INCOMPETENT INDIANS

Powers of Minister generally

51. (1) Subject to this section, all jurisdiction and authority in relation to the property of mentally incompetent Indians is vested exclusively in the Minister.

Particular powers

(2) Without restricting the generality of subsection (1), the Minister may

(a) appoint persons to administer the estates of mentally incompetent Indians;

(b) order that any property of a mentally incompetent Indian shall be sold, leased, alienated, mortgaged, disposed of or otherwise dealt with for the purpose of

(i) paying his debts or engagements,

(ii) discharging encumbrances on his property,

(iii) paying debts or expenses incurred for his maintenance or otherwise for his benefit, or

(iv) paying or providing for the expenses of future maintenance; and

(c) make such orders and give such directions as he considers necessary to secure the satisfactory management of the estates of mentally incompetent Indians.

Property off reserve

(3) The Minister may order that any property situated off a reserve and belonging to a mentally incompetent Indian shall be dealt with under the laws of the province in which the property is situated.

GUARDIANSHIP

Property of infant children

52. The Minister may administer or provide for the administration of any property to which infant children of Indians are entitled, and may appoint guardians for that purpose.

MANAGEMENT OF RESERVES AND
SURRENDERED AND DESIGNATED LANDS

53. (1) The Minister or a person appointed by the Minister for the purpose may, in accordance with this Act and the terms of the absolute surrender or designation, as the case may be,

- (a) manage or sell absolutely surrendered lands; or
- (b) manage, lease or carry out any other transaction affecting designated lands.

Transactions re surrendered and designated lands

(2) Where the original purchaser of surrendered lands is dead and the heir, assignee or devisee of the original purchaser applies for a grant of the lands, the Minister may, on receipt of proof in such manner as he directs and requires in support of any claim for the grant and on being satisfied that the claim has been equitably and justly established, allow the claim and authorize a grant to issue accordingly.

Departmental employees

(3) No person who is appointed pursuant to subsection (1) or who is an officer or a servant of Her Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in absolutely surrendered or designated lands.

R.S.C., 1985, c. 17 (4th Supp.), s. 5.

Assignments

54. Where absolutely surrendered lands are agreed to be sold and letters patent relating thereto have not issued, or where designated lands are leased or an interest in them granted, the purchaser, lessee or other person who has an interest in the absolutely surrendered or designated lands may, with the approval

of the Minister, assign all or part of that interest to any other person.

R.S.C. 1985, c. 17 (4th Supp.), s. 6.

Surrendered and Designated Lands Register

55. (1) There shall be maintained in the Department a register, to be known as the Surrendered and Designated Lands Register, in which shall be recorded particulars in connection with any transaction affecting absolutely surrendered or designated lands.

Transitional

(2) The Surrendered Lands Register kept in the Department before the coming into force of this Act constitutes, on the coming into force of this Act, the Surrendered and Designated Lands Register.

Proof of execution

(3) Registration of an assignment may be refused until proof of its execution has been furnished.

Effect of registration

(4) An assignment registered under this section is valid against an unregistered assignment or an assignment subsequently registered.

R.S.C. 1985, c. 17 (4th Supp.), s. 7.

Certificate of registration

56. Where an assignment is registered, there shall be endorsed on the original copy thereof a certificate of registration signed by the Minister or by an officer of the Department authorized by the Minister to sign such certificates.

Regulations

57. The Governor in Council may make regulations

- (a) authorizing the Minister to grant licences to cut timber on surrendered lands, or, with the consent of the council of the band, on reserve lands;
- (b) imposing terms, conditions and restrictions with respect to the exercise of rights conferred by licences granted under paragraph (a);
- (c) providing for the disposition of surrendered mines and minerals underlying lands in a reserve;
- (d) prescribing the punishment, not exceeding one hundred dollars or imprisonment for a term not exceeding three months or both, that may be imposed on summary conviction for contravention of any regulation made under this section; and

(e) providing for the seizure and forfeiture of any timber or minerals taken in contravention of any regulation made under this section.

Uncultivated or unused lands

58. (1) Where land in a reserve is uncultivated or unused, the Minister may, with the consent of the council of the band,

(b) where the land is in the lawful possession of any individual, grant a lease of that land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession of the land; and

(c) where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of that land for agricultural or grazing purposes.

Lease at request of occupant

(3) The Minister may lease for the benefit of any Indian, on application of that Indian for that purpose, the land of which the Indian is lawfully in possession without the land being designated.

R.S.C. 1985, c. 17 (4th Supp.), s. 8.

Adjustment of contracts

59. The Minister may, with the consent of the council of a band,

(a) reduce or adjust the amount payable to Her Majesty in respect of a transaction affecting absolutely surrendered lands, designated lands or other lands in a reserve or the rate of interest payable thereon; and

(b) reduce or adjust the amount payable to the band by an Indian in respect of a loan made to the Indian from band funds.

R.S.C. 1985, c. 17 (4th Supp.), s. 9.

Control over lands

60. (1) The Governor in Council may at the request of a band grant to the band the right to exercise such control and management over lands in the reserve occupied by that band as the Governor in Council considers desirable.

Withdrawal

(2) The Governor in Council may at any time withdraw from a band a right conferred on the band under subsection (1).

MANAGEMENT OF INDIAN MONEYS

Indian moneys to be held for use and benefit

61. (1) Indian moneys shall be expended only for the benefit of the Indians or bands for whose use and benefit in common the moneys are received or held, and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which Indian moneys are used or are to be used is for, the use and benefit of the band.

Expenditure of capital moneys with consent

64. (1) With the consent of the council of a band, the Minister may authorize and direct the expenditure of capital moneys of the band

(c) to construct and maintain outer boundary fences on reserves;

(d) to purchase land for use by the band as a reserve or as an addition to a reserve;

(e) to purchase for the band the interest of a member of the band in lands on a reserve;

(i) to meet expenses necessarily incidental to the management of lands on a reserve, surrendered lands and any band property;

(k) for any other purpose that in the opinion of the Minister is for the benefit of the band.

R.S.C. 1985, c. 32 (1st Supp.), s. 10.

Expenditure of revenue moneys with authority of Minister

66. (3) The Minister may authorize the expenditure of revenue moneys of the band for all or any of the following purposes, namely,

(f) for the construction and maintenance of boundary fences.

R.S.C. 1985, c. 32 (1st Supp.), s. 12.

Management of revenue moneys by band

69. (1) The Governor in Council may by order permit a band to control, manage and expend in whole or in part its revenue moneys and may amend or revoke any such order.

Regulations

(2) The Governor in Council may make regulations to give effect to subsection (1) and may declare therein the extent to which this Act and the *Financial Administration Act* shall not apply to a band to which an order made under subsection (1) applies.

REGULATIONS

Application of profits

73. (1) The Governor in Council may make regulations
- (l) for the construction and maintenance of boundary fences; and
 - (m) for empowering and authorizing the council of a band to borrow money for band projects or housing purposes and providing for the making of loans out of moneys so borrowed to members of the band for housing purposes.

- (b) the personal property of an Indian or a band situated on a reserve.

Idem

- (2) No Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (1)(a) or (b) or is otherwise subject to taxation in respect of any such property.

LEGAL RIGHTS

POWERS OF THE COUNCIL

By-laws

81. (1) The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely,
- (i) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section 60;
 - (p) the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes;

R.S.C. 1985, c. 32 (1st Supp.), s. 15.

Money by-laws

83. (1) Without prejudice to the powers conferred by section 81, the council of a band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely,
- (a) subject to subsections (2) and (3), taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve;

R.S.C. 1985, c. 17 (4th Supp.), s. 10.

TAXATION

Property exempt from taxation

87. (1) Notwithstanding any other Act of Parliament or any Act of the legislature of a province, but subject to section 83, the following property is exempt from taxation, namely,
- (a) the interest of an Indian or a band in reserve lands or surrendered lands; and

General provincial laws applicable to Indians

88. Subject to the terms of any treaty and any other Act of Parliament, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that those laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that those laws make provision for any matter for which provision is made by or under this Act.

Restriction on mortgage, seizure, etc., of property on reserve

89. (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian or a band.

Exception

- (1.1) Notwithstanding subsection (1), a leasehold interest in designated lands is subject to charge, pledge, mortgage, attachment, levy, seizure, distress and execution.

R.S.C. 1985, c. 17 (4th Supp.), s. 12.

REMOVAL OF MATERIALS FROM RESERVES

Removal of material from reserve

93. A person who, without the written permission of the Minister or his duly authorized representative,
- (a) removes or permits anyone to remove from a reserve
 - (i) minerals, stone, sand, gravel, clay or soil, or
 - (ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay, or
 - (b) has in his possession anything removed from a reserve contrary to this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars

or to imprisonment for a term not exceeding three months or to both.

The above excerpts of the *Indian Act* are from chapter I-5 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 27 (1st Supp.), s. 203; RA 20.06.85; CIF 04.12.85 (SI/85-211).
- R.S.C. 1985, c. 32 (1st Supp.); RA 28.06.85; CIF 17.04.85 ex. ss. 17, 18 (s. 24(1)).
ss. 17, 18 CIF 28.12.85 (s. 24(2)).
- R.S.C. 1985, c. 27 (2nd Supp.), s. 10[Sch., item 13]; RA 27.06.86; CIF 01.10.87 (SI/87-221).
- R.S.C. 1985, c. 17 (4th Supp.); RA 28.06.88.
- R.S.C. 1985, c. 43 (4th Supp.); RA 13.09.88; CIF 17.04.85 (s. 3).
- R.S.C. 1985, c. 48 (4th Supp.); RA 13.09.88.
- S.C. 1990, c. 16, s. 14; RA 12.06.90; CIF 01.07.90 (SI/90-90).
- S.C. 1990, c. 17, s. 17; RA 12.06.90; CIF 01.09.90 (SI/90-106).
- S.C. 1992, c. 1, s. 144[Sch. VII, item 35]; RA 28.02.92.
- S.C. 1992, c. 51, s. 54; RA 17.12.92; CIF 30.01.93 (SI/93-11).

Indian Oil and Gas Act

An Act respecting oil and gas in Indian Lands

Excerpts from
Chapter I-7, R.S.C. 1985
As amended

SHORT TITLE**Short title**

1. This Act may be cited as the *Indian Oil and Gas Act*.

INTERPRETATION**Definitions**

2. In this Act,

"gas"

"gas" means natural gas that is or can be produced from a well, both before and after it has been subjected to any processing, and includes marketable gas and all fluid components not defined as oil;

"Indian lands"

"Indian lands" means lands reserved for the Indians, including any interests therein, surrendered in accordance with the *Indian Act* and includes any lands or interests in lands described in any grant, lease, permit, licence or other disposition referred to in section 5;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"oil"

"oil" means crude oil and all other hydrocarbons, regardless of gravity, that are or can be produced from a well in liquid form including crude bitumen but excluding condensate.

(b) respecting the disposition of any interest in Indian lands necessarily incidental to the exploitation of oil and gas in those lands, and the terms and conditions thereof;

(c) providing for the seizure and forfeiture of any oil or gas taken in contravention of any regulation made under this section or any lease, licence or permit granted under such regulation;

(d) prescribing the royalties on oil and gas obtained from Indian lands;

(e) prescribing the fine not exceeding five thousand dollars that may be imposed on summary conviction for contravention of any regulation made under this section or failure to comply with any lease, permit or licence granted pursuant to any regulation under this section; and

(f) generally for carrying out the purposes of this Act and for the exploitation of oil and gas in Indian lands.

Royalties

4. (1) Notwithstanding any term or condition in any grant, lease, permit, licence or other disposition or any provision in any regulation respecting oil or gas or both oil and gas or the terms and conditions of any agreement respecting royalties in relation to oil or gas or both oil and gas, whether granted, issued, made or entered into before or after December 20, 1974, but subject to subsection (2), all oil and gas obtained from Indian lands after April 22, 1977 is subject to the payment to Her Majesty in right of Canada, in trust for the Indian bands concerned, of the royalties prescribed from time to time by the regulations.

Special agreements

- (2) The Minister may, with the approval of the council of the band concerned, enter into a special agreement with any person for a reduction or an increase, or a variation in the basis of calculation of royalties payable under subsection (1).

GENERAL**Regulations**

3. The Governor in Council may make regulations
- (a) respecting the granting of leases, permits and licences for the exploitation of oil and gas in Indian lands, and the terms and conditions thereof;

Existing grants, leases, etc.

5. Every grant, lease, permit, licence or other disposition respecting the exploitation of oil and gas in Indian lands, whether granted, issued, made or entered into before or after December 20, 1974, and, without restricting the generality of the foregoing, any grant, lease, permit, licence or other disposition respecting oil or gas or both oil or gas issued or made or purported to be issued or made pursuant to any other regulation or order made under the provisions of the *Indian Act* is deemed to be subject to any regulations made under this Act.

Minister to consult

6. (1) The Minister, in administering this Act, shall consult, on a continuing basis, persons representative of the Indian bands most directly affected thereby.

Rights not abrogated

(2) Nothing in this Act shall be deemed to abrogate the rights of Indian people or preclude them from negotiating for oil and gas benefits in those areas in which land claims have not been settled.

The above excerpts of the *Indian Oil and Gas Act* are from chapter I-7 of the *Revised Statutes of Canada*, 1985.

International Boundary Commission Act

An Act respecting the International Boundary Commission

Excerpts from
Chapter I-16, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *International Boundary Commission Act*.

INTERPRETATION

Definitions

2. In this Act,

"boundary"

"boundary" means the international boundary between Canada and the United States as determined and marked by the Commission;

"boundary monument"

"boundary monument" means a buoy, post, tablet, cairn or other object or structure placed, erected or maintained by the Commission to mark the boundary and includes a reference monument, triangulation station or other marker or structure placed, erected or maintained by the Commission to assist in determining the boundary;

"Commission"

"Commission" means the International Boundary Commission established pursuant to the treaty of 1908;

"treaty of 1908"

"treaty of 1908" means the treaty between His Majesty King Edward VII and the United States respecting the demarcation of the international boundary between the United States and Canada signed at Washington on April 11, 1908;

"work"

"work" means any ditch, earthwork, building or structure of any description or any lines of telephone, telegraph or power, including posts, piers or abutments for sustaining or protecting the wires or cables of those lines.

POWERS OF THE COMMISSION

Commission's powers

3. For the purpose of maintaining an effective boundary line between Canada and the United States, the Commission and its members, officers, employees and agents may at any time

(a) enter on and pass over the land of any person in order to gain access to the boundary or to survey the boundary;

(b) erect and maintain boundary monuments on the land of any person; and

(c) clear from the land of any person such trees and underbrush as the Commission deems necessary to maintain a vista ten feet in width from the boundary.

Removal of unauthorized works

4. (1) Any work or any addition to a work that is, after July 6, 1960, constructed or placed within ten feet of the boundary without the permission of the Commission may be removed and destroyed by the Commission or its members, officers, employees or agents, and the materials contained in the work or addition may be sold, given away or otherwise disposed of.

Costs recoverable

(2) The costs of and incidental to any removal, destruction or disposition of a work or addition pursuant to subsection (1), after deducting therefrom any sum that may be realized by the sale or other disposition, are recoverable with costs by Her Majesty from the owner as a debt due to Her Majesty.

Definition of "owner"

(3) In this section, "owner" includes the person authorizing or otherwise responsible for the construction or placement of any work or any addition to a work referred to in subsection (1), and the actual or reputed owner or person in possession or claiming

ownership thereof for the time being, and all or any of those persons jointly and severally.

PROHIBITION

Construction of works

5. Except with the permission of the Commission, no person shall

- (a) construct or place within ten feet of the boundary any work or any addition to a work; or
- (b) enlarge any work that was on July 6, 1960 within ten feet of the boundary.

Obstruction of Commission

7. No person shall obstruct or hinder a member of the Commission or an officer, employee or agent of the Commission in the carrying out of his duties or functions under this Act.

Contravention of Act

8. Every person who, or whose employee or agent, has contravened any provision of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both.

GENERAL

Claims in tort against Canadian Commissioner

9. For the purposes of section 3 of the *Crown Liability and Proceedings Act*, a tort committed by the person appointed by the Governor in Council to be the Canadian member of the Commission while acting in the scope of the member's duties or employment shall be deemed to have been committed by a servant of the Crown while acting within the scope of the servant's duties or employment.

S.C. 1993, c. 34, s. 86.

Binding on Her Majesty

10. This Act is binding on Her Majesty.

Defacement of boundary monuments

6. Except with the permission of the Commission, no person shall

- (a) pull down, deface, alter or remove a boundary monument erected or maintained by the Commission; or
- (b) have a boundary monument or any portion thereof in his possession or custody.

The above excerpts of the *International Boundary Commission Act* are from chapter I-16 of the *Revised Statutes of Canada, 1985* as amended by:

- S.C. 1993, c. 34, s. 86; RA 23.06.93.

National Energy Board Act

An Act to establish a National Energy Board

Excerpts from
Chapter N-7, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *National Energy Board Act*.

INTERPRETATION

Definitions

2. In this Act,

"Board"

"Board" means the National Energy Board established by section 3;

"company"

"company" includes

- (a) a person having authority under a Special Act to construct or operate a pipeline, and
- (b) a body corporate incorporated or continued under the *Canada Business Corporations Act* and not discontinued under that Act;

"lands"

"lands" means lands the acquiring, taking or using of which is authorized by this Act or a Special Act, and includes real property, messuages, lands, tenements and hereditaments of any tenure, and any easement, servitude, right, privilege or interest in, to, on, under, over or in respect of the same;

"Minister"

"Minister" means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act;

"pipeline"

"pipeline" means a line that is used or to be used for the transmission of oil, gas or any other commodity and that connects a province with any other province or provinces or extends beyond the limits of a province or the offshore area as defined in section 123, and includes all branches, extensions, tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio and real and personal property and works connected therewith, but does not

include a sewer or water pipeline that is used or proposed to be used solely for municipal purposes;

"registrar of deeds"

"registrar of deeds" includes the registrar of land titles or other officer with whom title to land is registered;

"Special Act"

"Special Act" means

- (a) an Act of Parliament that authorizes a person named in the Act to construct or operate a pipeline or that is enacted with special reference to a pipeline that a person is by such an Act authorized to construct or operate, and
- (b) letters patent issued under section 5.1 or 5.4 of the *Canada Corporations Act*, chapter C-32 of the Revised Statutes of Canada, 1970, except for the purpose of paragraph 115(b) of this Act;

R.S.C. 1985, c. 28 (3rd Supp.), s. 299;

S.C. 1990, c. 7, s. 1;

S.C. 1996, c. 10, s. 237.

APPLICATION

Binding on Her Majesty

2.1 This Act is binding on Her Majesty in right of Canada or a province.

added, S.C. 1990, c. 7, s. 2.

PART I

NATIONAL ENERGY BOARD

Establishment of the Board

Board established

3. (1) There is hereby established a Board, to be called the National Energy Board, consisting of not more than nine members to be appointed by the Governor in Council.

S.C. 1990, c. 7, s. 3;

S.C. 1991, c. 27, s.1.

*Executive Officers**Chairman and Vice-Chairman*

6. (1) The Governor in Council shall designate one of the members to be Chairman of the Board and another of the members to be Vice-Chairman of the Board.

Duties of Chairman

- (2) The Chairman is the chief executive officer of the Board, and has supervision over and direction of the work and staff of the Board.

S.C. 1990, c. 7, s. 4.

*Rules**Rules*

8. The Board may make rules respecting
- (b) the procedure for making applications, representations and complaints to the Board and the conduct of hearings before the Board, and generally the manner of conducting any business before the Board;

*Powers of the Board**Board a court*

11. (1) The Board is a court of record.

Official Seal

- (2) The Board shall have an official seal, which shall be judicially noticed.

Powers with respect to witnesses, etc.

- (3) The Board has, with respect to the attendance, swearing and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property and other matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court of record.

Jurisdiction

12. (1) The Board has full and exclusive jurisdiction to inquire into, hear and determine any matter
- (a) where it appears to the Board that any person has failed to do any act, matter or thing required to be done by this Act or by any regulation, certificate, licence or permit, or any order of direction made by the Board, or that any person has done or is doing any act, matter or thing contrary to or in contravention of this Act, or any

such regulation, certificate, licence, permit, order or direction; or

(b) where it appears to the Board that the circumstances may require the Board, in the public interest, to make any order or give any direction, leave, sanction or approval that by law it is authorized to make or give, or with respect to any matter, act or thing that by this Act or any such regulation, certificate, licence, permit, order or direction is prohibited, sanctioned or required to be done.

Matters of law and fact

- (2) For the purposes of this Act, the Board has full jurisdiction to hear and determine all matters, whether of law or of fact.

S.C. 1990, c. 7, s. 5.

Mandatory orders

13. The Board may

- (a) order and require any person to do, forthwith, or within or at any specified time and in any manner prescribed by the Board, any act, matter or thing that such person is or may be required to do under this Act, or any regulation, certificate, licence or permit, or any order or direction made or given under this Act; and
- (b) forbid the doing or continuing of any act, matter or thing that is contrary to this Act or any such regulation, certificate, licence, permit, order or direction.

ADVISORY FUNCTIONS

Board to make continuing studies and reports

26. (1) The Board shall study and keep under review matters over which Parliament has jurisdiction relating to the exploration for, production, recovery, manufacture, processing, transmission, transportation, distribution, sale, purchase, exchange and disposal of energy and sources of energy in and outside Canada, shall report thereon from time to time to the Minister and shall recommend to the Minister such measures within the jurisdiction of Parliament as it considers necessary or advisable in the public interest for the control, supervision, conservation, use, marketing and development of energy and sources of energy.

Request of Minister

- (2) The Board shall, with respect to energy matters and sources of energy,
- (a) provide the Minister with such advice as the Minister may request, including advice relating to the export pricing of oil and gas;

(b) prepare such studies and reports as the Minister may request; and

(c) recommend to the Minister the making of such arrangements as it considers desirable for cooperation with governmental or other agencies in or outside Canada.

S.C. 1994, c. 10, s. 22.

PART III

CONSTRUCTION AND OPERATION OF PIPELINES

General

Companies only

29. (1) No person, other than a company, shall construct or operate a pipeline.

Exception

(2) Nothing in this section shall be construed to prohibit or prevent any person from operating or improving a pipeline constructed before October 1, 1953, but every such pipeline shall be operated in accordance with this Act.

Location of Pipelines

Approval of Board

31. Except as otherwise provided in this Act, no company shall begin the construction of a section or part of a pipeline unless

(a) the Board has by the issue of a certificate granted the company leave to construct the line;

(b) the company has complied with all applicable terms and conditions to which the certificate is subject;

(c) the plan, profile and book of reference of the section or part of the proposed line have been approved by the Board; and

(d) copies of the plan, profile and book of reference so approved, duly certified as such by the Secretary, have been deposited in the offices of the registrars of deeds for the districts or counties through which the section or part of the pipeline is to pass.

Application for certificate

32. (1) On an application for a certificate, the company shall file with the Board a map in such detail as the Board may require showing the general location

of the proposed line and such plans, specifications and information as the Board may require.

Notice to provincial attorney general

(2) The company shall file a copy of the application and of the map referred to in subsection (1) with the attorney general of each province to which the application relates in whole or in part, and the Board shall require notice of the application to be given by publication in newspapers or otherwise.

S.C. 1990, c. 7, s. 15.

Plan, Profile and Book of Reference

Plan, etc., of pipeline

33. (1) When the Board has issued a certificate, the company shall prepare and submit to the Board a plan, profile and book of reference of the pipeline.

Details

(2) The plan and profile shall be drawn with such detail as the Board may require.

Description of lands

(3) The book of reference shall describe the portion of land proposed to be taken in each parcel of land to be traversed, giving the numbers of the parcels, and the area, length and width of the portion of each parcel to be taken, and the names of the owners and occupiers in so far as they can be ascertained.

Further information

(4) The plan, profile and book of reference shall be prepared to the satisfaction of the Board, and the board may require the company to furnish any further or other information that the Board considers necessary.

Determination of Detailed Route and Approval

Notice to owners

34. (1) Where a company has prepared and submitted to the Board a plan, profile and book of reference pursuant to subsection 33(1), the company shall, in a manner and in a form to be determined by the Board,

(a) serve a notice on all owners of lands proposed to be acquired, in so far as they can be ascertained; and

(b) publish a notice in at least one issue of a publication, if any, in general circulation within the area in which the lands are situated.

Contents of notices

(2) The notices mentioned in subsection (1) shall describe the proposed detailed route of the pipeline, the

location of the offices of Board and the right of the owner and of persons referred to in subsection (4) to make, within the time referred to in subsection (3) or (4), as the case may be, representations to the Board respecting the detailed route of the pipeline.

Written statement of interest and grounds for opposition

(3) Where an owner of lands who has been served with a notice pursuant to subsection (1) wishes to oppose the proposed detailed route of a pipeline, the owner may, within thirty days of being served, file with the Board a written statement setting out the nature of the owner's interest in the proposed detailed route and the grounds for his opposition to that route.

Opposition by persons adversely affected

(4) A person who anticipates that his lands may be adversely affected by the proposed detailed route of a pipeline, other than an owner of lands referred to in subsection (3), may oppose the proposed detailed route by filing with the Board within thirty days following the last publication of the notice referred to in subsection (1) a written statement setting out the nature of that person's interest in those lands and the grounds for the opposition to the proposed detailed route of the pipeline.

Matters to be taken into account

36. (1) Subject to subsections (2) and 35(5), the Board shall not give approval to a plan, profile and book of reference unless the Board has taken into account all written statements filed with it pursuant to subsection 34(3) or (4) and all representations made to it at a public hearing in order to determine the best possible detailed route of the pipeline and the most appropriate methods and timing of constructing the pipeline.

Exception

(2) The Board may approve a plan, profile and book of reference in respect of any section or part of a pipeline where no written statement under subsection 34(3) or (4) has been filed with the Board in respect of that section or part.

Errors

Application for correction of errors

41. (1) Where any omission, mis-statement or error is made in a registered plan, profile or book of reference, a company may apply to the Board for a permit to correct the omission, mis-statement or error.

How corrected

(2) The Board may in its discretion issue a permit setting out the nature of the omission, mis-statement or error referred to in subsection (1) and the correction allowed.

Registration

(3) On the deposit of copies of the permit issued under subsection (2), certified as such by the Secretary, in the offices of the registrars of deeds of the districts or counties in which the lands affected are situated, the plan, profile or book of reference shall be taken to be corrected in accordance therewith, and the company may, thereupon, subject to this Act, construct its pipeline in accordance with the correction. S.C. 1990, c. 7, s. 16.

Duties of Registrars of Deeds

Registration of plans, etc.

43. (1) Every registrar of deeds shall receive and preserve in his office all plans, profiles, books of reference, certified copies thereof and other documents, required by this Act to be deposited with the registrar, and shall endorse thereon the day, hour and minute when they were so deposited.

Deviations

Approval of deviations

45. (1) When a deviation, change or alteration is required by a company to be made in its pipeline, or any portion of that pipeline, as already constructed or as merely located and approved, a plan, profile and book of reference of the portion of the pipeline proposed to be changed, showing the deviation, change or alteration proposed to be made, shall be submitted for the approval of the Board.

Construction of works after approval

(2) When the plan, profile and book of reference, submitted pursuant to subsection (1), of the portion of the pipeline proposed to be changed have been approved by the Board, and copies thereof have been deposited as provided in this Act with respect to the original plan, profile and book of reference, the company may make the deviation, change or alteration, and all the provisions of this Act are applicable to the portion of the pipeline, at any time so changed or proposed to be changed, in the same manner as they are applicable to the original pipeline.

Exemptions

(3) The Board may exempt a company from all or any of the provisions of this section where the deviation, change or alteration was made or is to be made for the purpose of benefiting a pipeline, or for any other purpose of public advantage, as may seem to the Board expedient, but the deviation, change or alteration shall not exceed such distance as the Board requires from the centre line of the pipeline, located or constructed in accordance with the plans, profiles and books of reference approved by the Board under this Act.

PART V**POWERS OF PIPELINE COMPANIES***General Powers**Powers of company*

73. A company may, for the purposes of its undertaking, subject to this Act and to any Special Act applicable to it,

- (a) enter into and on any Crown land without previous licence therefor, or into or on the land of any person, lying in the intended route of its pipeline, and make surveys, examinations or other necessary arrangements on the land for fixing the site of the pipeline, and set out and ascertain such parts of the land as are necessary and proper for the pipeline;
- (b) purchase, take and hold of and from any person any land or other property necessary for the construction, maintenance and operation of its pipeline and alienate, sell or dispose of any of its land or property that for any reason has become unnecessary for the purpose of the pipeline;
- (c) construct, lay, carry or place its pipeline across, on or under the land of any person on the located line of the pipeline;
- (i) do all other acts necessary for the construction, maintenance and operation of its pipeline.

*Taking and Using Lands**Crown lands*

77. (1) No company shall take possession of, use or occupy lands vested in Her Majesty without the consent of the Governor in Council.

Consent

(2) A company may, with the consent of the Governor in Council and on such terms as the Governor in Council may prescribe, take and appropriate, for the use of its pipeline and works, so much of the lands of Her Majesty lying on the route of the line that have not been granted or sold, as is necessary for the pipeline, and also so much of the public beach, or bed of a lake, river or stream, or of the lands so vested covered with the waters of a lake, river or stream as is necessary for making, completing and using its pipeline and works.

Indian lands

78. (1) No company shall take possession of or occupy lands in an Indian reserve without the consent of the Governor in Council.

Compensation

(2) Where, with the consent of the Governor in Council, lands in an Indian reserve are taken possession of, used or occupied by a company, or where they are injuriously affected by the construction of a pipeline, compensation shall be made therefor as in the case of lands taken without the consent of the owner.

Definition of "Indian reserve"

- (3) In this section, "Indian reserve" means
- (a) a reserve, as defined in the *Indian Act*; or
 - (b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*, chapter 18 of the Statutes of Canada, 1984, or
 - (c) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*, chapter 27 of the Statutes of Canada, 1986.

R.S.C. 1985, c. 20 (2nd Supp.), s. 6.

Settlement land

78.1 (1) No company shall, if the Yukon first nation concerned does not consent thereto, take possession of or occupy settlement land as defined in section 2 of the *Yukon Surface Rights Board Act* without the consent of the Governor in Council.

Tetlit Gwich'in Yukon land

(2) No company shall, if the Gwich'in Tribal Council does not consent thereto, take possession of or occupy Tetlit Gwich'in Yukon land without the consent of the Governor in Council.

Definition of "Tetlit Gwich'in Yukon land"

(4) In this section, "Tetlit Gwich'in Yukon land" means land as described in Annex B, as amended from time to time, to Appendix C of the Comprehensive

Land Claim Agreement between Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, that was approved, given effect and declared valid by the *Gwich'in Land Claim Settlement Act*.

added, S.C. 1994, c. 43, s. 87.

Mines and Minerals

Protection of mines

79. No company shall, without the authority of the Board, locate the line of its proposed pipeline, or construct the pipeline or portion thereof, so as to obstruct or interfere with or injuriously affect the working of or the access or adit to a mine then open, or for the opening of which preparations are, at the time of the location, being lawfully and openly made.

Protection of pipeline from mining operations

81. (1) No person shall work or prospect for mines or minerals lying under a pipeline or any of the works connected therewith, or within forty metres therefrom, until leave therefor has been obtained from the Board.

Use of oil and gas

(2) Notwithstanding subsection (1), leave from the Board is not required in the case of a well taking oil or gas from lands lying under a pipeline or any of the works connected therewith if the well is not drilled within forty metres of the pipeline.

Acquisition of Lands

Methods of acquisition

86. (1) Subject to subsection (2), a company may acquire lands for a pipeline under a land acquisition agreement entered into between the company and the owner of the lands or, in the absence or such an agreement, in accordance with this Part.

Form of agreement

(2) A company may not acquire lands for a pipeline under a land acquisition agreement unless the agreement includes provision for

- (a) compensation for the acquisition of lands to be made, at the option of the owner of the lands, by one lump sum payment or by annual or periodic payments of equal or different amounts over a period of time;
- (b) review every five years of the amount of any compensation payable in respect of which annual or other periodic payments have been selected;

(c) compensation for all damages suffered as a result of the operations of the company;

(d) indemnification from all liabilities, damages, claims, suits and action, arising out of the operations of the company other than liabilities, damages, claims, suits and actions resulting from gross negligence or wilful misconduct of the owner of the lands;

(e) restricting the use of the lands to the line of pipe or other facility for which the lands are, by the agreement, specified to be required unless the owner of the lands consents to any proposed additional use at the time of the proposed additional use; and

(f) such additional matters as are, at the time the agreement is entered into, required to be included in a land acquisition agreement by any regulations made under paragraph 107(a).

Notice of proposed acquisition of lands

87. (1) When a company has determined the lands that may be required for the purposes of a section or part of a pipeline, the company shall serve a notice on all owners of the lands, in so far as they can be ascertained, which notice shall set out or be accompanied by

- (a) a description of the lands of the owner that are required by the company for that section or part;

Right of Entry

Immediate right of entry

104. (1) Subject to subsection (2), the Board may, on application in writing by a company, if the Board considers it proper to do so, issue an order to the company granting it an immediate right to enter any lands on such terms and conditions, if any, as the Board may specify in the order.

Where immediate right of entry prohibited

(2) An order under subsection (1) shall not be issued in respect of any lands unless the company making the application for the order satisfies the Board that the owner of the lands has not less than thirty days and not more than sixty days prior to the date of the application, been served with a notice setting out

- (a) the date the company intends to make its application to the Board under subsection (1);
- (b) the date the company wishes to enter the lands;

(c) the address of the Board to which any objection in writing that the owner might wish to make concerning the issuance of the order may be sent; and

(d) a description of the right of the owner to an advance of compensation under section 105 if the order is issued and the amount of the advance that the company is prepared to make.

(b) shall be deposited in, and shall be registered, recorded or filed, as the case requires, by the registrar of deeds of, the land registry or land titles office in which land transactions affecting those lands may be deposited, registered, recorded or filed.

Regulations

107. The Minister may, with the approval of the Governor in Council, make regulations

(a) prescribing, in addition to the matters specified in paragraphs 86(2)(a) to (e), other matters that shall be included in a land acquisition agreement between a company and an owner of lands;

Vesting and registration

106. An order under subsection 104(1) vesting and granting to a company an immediate right to registration enter any lands

(a) shall be deemed to vest in the company such right, title and interest in the lands in respect of which the order is granted as is specified in the order; and

The above excerpts of the *National Energy Board Act* are from chapter N-7 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 1 (2nd Supp.), s. 213; RA 13.02.86; CIF 10.11.86 (SI/86-206).
- R.S.C. 1985, c. 20 (2nd Supp.), s. 6; RA 17.06.86; CIF 09.10.86 (SI/86-193).
- R.S.C. 1985, c. 28 (3rd Supp.), s. 299, 359; RA 28.08.87; CIF 01.01.88 (SI/88-26).
- S.C. 1988, c. 65, ss. 143, 144; RA 30.12.88; CIF 01.01.89 (SI/89-9).
- S.C. 1990, c. 7; RA 29.03.90; CIF 01.06.90 ex. ss. 13, 20, 25, 27 (SI/90-66)
 - ss. 13, 20 CIF 01.01.90 (SI/90-174)
 - s.25 CIF 12.12.88 (s. 52(3))
 - s.27 CIF 29.03.90.
- S.C. 1991, c. 27; RA 21.06.91; CIF 21.06.91 ex. ss. 1, 2; ss. 1, 2 CIF 01.11.91 (SI/91-145).
- S.C. 1993, c. 44, ss. 186 to 188; RA 23.06.93; CIF 01.01.94 (SI/94-1).
- S.C. 1994, c. 10, ss. 19 to 26; RA 12.05.94.
- S.C. 1994, c. 24, s. 34; RA 23.06.94.
- S.C. 1994, c. 43, ss. 87 to 89; RA 15.12.94; CIF 14.02.95 (SI/95-19).
- S.C. 1996, c. 10, ss. 237 to 245; RA 29.05.96; CIF 01.07.96 (SI/96-53).

National Parks Act

An Act respecting National Parks

Excerpts from
Chapter N-14, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *National Parks Act*.

INTERPRETATION

Definitions

2. In this Act,

"director-general"

"director-general" means an officer appointed under the *Public Service Employment Act* and holding the office of director-general in the Department of the Environment;

"Minister"

"Minister" means the Minister of Canadian Heritage;

"park"

"park" means a National Park or National Marine Park described in Schedule I;

"park warden"

"park warden" means an officer appointed under the *Public Service Employment Act* whose duties include the enforcement of this Act;

"public lands"

"public lands" means lands belonging to Her Majesty in right of Canada or of which the Government of Canada has, subject to the terms of any agreement between the Government of Canada and the government of the province in which the lands are situated, power to dispose, including any waters on or flowing through, and the natural resources of, those lands.

"superintendent"

"superintendent" means an officer appointed under the *Public Service Employment Act* and holding the office of superintendent of a park, and includes any person appointed under that Act who is authorized by such an officer to act on the officer's behalf.

R.S.C. 1985, c. 39 (4th Supp.), s. 1;

S.C. 1995, c. 11, s. 26.

PART I

NATIONAL PARKS OF CANADA

Additions to Parks

Governor in Council may add lands to existing parks

3. (2) Subject to subsections (3) to (6), the Governor in Council may, by proclamation, amend Schedule I by adding to any park described therein lands described in the proclamation where the Governor in Council is satisfied that

(a) clear title to the lands described in the proclamation is vested in Her Majesty in right of Canada;

(b) agreement has been reached with the province in which the lands are situated that the lands are suitable for addition to a National Park; and

(c) notice of intention to issue a proclamation under this section, together with a description of the lands proposed to be described in the proclamation, has been published in the *Canada Gazette* at least ninety days before the day on which the Governor in Council proposes to issue the proclamation and, where the area of the lands described in the proclamation is significant in relation to the park, has been published, during that period of at least ninety days, in a newspaper or alternative medium serving the area in which the lands are situated and in two major daily newspapers in each of the five regions of Canada, namely, the Atlantic provinces, Quebec, Ontario, the Prairie provinces and British Columbia, at least once a week for a period of four consecutive weeks in both official languages and in any other language that, in the opinion of the Minister, is appropriate.

Notice to be tabled and referred

(3) A notice of intention to issue a proclamation that is published in the *Canada Gazette* pursuant to subsection (2) shall stand tabled in the House of Commons and, on being tabled, shall stand referred to

the committee of that House that normally considers environmental matters.

Considerations by Standing Committee

(4) On receipt of a notice of intention referred to in subsection (3), the committee shall without delay meet, hear witnesses, consider relevant evidence and then report to the House of Commons approving or disapproving of the proposed proclamation.

Disposition of report

(5) Under Routine Proceedings of the House of Commons on the sitting day next following the presentation of the report referred to in subsection (4), a motion to concur therein standing in the name of the chairman of the committee shall be put and disposed of without debate.

Where proclamation not to issue

(6) Where the House of Commons concurs in a report referred to in subsection (4) disapproving of the proposed proclamation or does not concur in a report approving of the proposed proclamation, the Governor in Council shall not issue the proclamation.

R.S.C. 1985, c. 39 (4th Supp.), s. 2.

General Purposes

Parts to be public possessions

4. The National Parks of Canada are hereby dedicated to the people of Canada for their benefit, education and enjoyment, subject to this Act and the regulations, and the National Parks shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations.

Park Administration

Administration

5. (1) Subject to section 8.2, the administration, management and control of the parks shall be under the direction of the Minister.

Management plan

(1.1) The Minister shall, within five years after the proclamation of a park, under any Act of Parliament, cause to be laid before each House of Parliament a management plan for that park in respect of resource protection, zoning, visitor use, and any other matter that the Minister considers appropriate.

Ecological integrity

(1.2) Maintenance of ecological integrity through the protection of natural resources shall be the

first priority when considering park zoning and visitor use in a management plan.

Review of plan

(1.3) The Minister shall review the management plan of a park every five years and shall cause any amendments to the plan to be laid with the plan before each House of Parliament.

Wilderness areas

(8) The Governor in Council may, by regulation, declare any region of a park that exists in a natural state or is capable of returning to a natural state to be a wilderness area.

Maintaining character

(9) The Minister may not authorize any activity to be carried on in a wilderness area that is likely to impair the wilderness character of the area.

Exceptions

(10) Notwithstanding subsection (9), the Minister may authorize activities to be carried on in a wilderness area, subject to such conditions as the Minister considers necessary, for purposes of

- (a) park administration;
- (b) public safety;
- (c) the provision of basic user facilities including trails and rudimentary campsites;
- (d) the carrying on of traditional renewable resource harvesting activities authorized pursuant to subsection (7) or any other Act of Parliament; or
- (e) access by air to remote parts of such areas.

R.S.C. 1985, c. 39 (4th Supp.), s. 3;

S.C. 1992, c. 1, s. 100.

Park Lands

Restrictions

6. (1) Public lands within the parks shall not be disposed of or located or settled on, and no person shall use or occupy any part of such lands, except under the authority of this Act or the regulations.

Disposition of public lands

- (2) The Governor in Council may authorize
 - (a) the sale, lease or other disposition of public lands within a park that are already used for or as
 - (i) the right-of-way of a railway or the site of a railway station,
 - (ii) the right-of-way of an oil or gas pipeline or the site of any tank, reservoir, pump, rack, loading facility or other installation connected with an oil or gas pipeline, or

(iii) the right-of-way of a telephone, telegraph or electrical transmission line or the site of any exchange, office, substation or other installation connected therewith;

(b) the sale, lease or other disposition of public lands within a park that are required for an alteration to or deviation from any right-of-way referred to in paragraph (a) or for the relocation of any station or installation referred to in that paragraph; or

(c) the lease or the granting of licences of occupation of public lands within a park for the installation and operation of radio and television repeater stations, microwave towers and weather, telemetry and cosmic ray stations.

Lands part of park and reversion to Crown

(3) The lands referred to in subsection (2) shall remain part of the park within which they are situated, and if they cease to be used for the purpose for which they were disposed of they shall thereupon revert to the Crown.

Acquisition of lands for parks

(4) The Governor in Council may authorize the Minister to acquire otherwise than by expropriation any lands or interests therein for the purpose of enlarging a park or establishing a new park and to purchase, expropriate or otherwise acquire any lands or interests therein for other park purposes.

Expropriation Act

(5) The *Expropriation Act* applies to any expropriation proceedings taken under this section.

Provincial services

(6) The Minister may enter into an agreement with the government of a province for the use of public lands within a park for the delivery of services by that government under such conditions as are stipulated in the agreement, and if they cease to be used for the purpose stipulated in the agreement, the agreement is terminated.

R.S.C. 1985, c. 39 (4th Supp.), s. 4.

Regulations

7. (1) The Governor in Council may, as he deems expedient, make regulations for

(a) the preservation, control and management of the parks;

(g) the granting, amending and surrender of leases and licences of occupation of public lands in towns and visitor centres for the purposes of residence, trade, tourism, schools, churches, hospitals and places of recreation or entertainment, and of public

lands in resort subdivisions for the purpose of residence;

(h) the granting, amending and surrender of leases and licences of occupation of public lands outside towns, visitor centres and resort subdivisions for the purposes of tourism, schools, churches, hospitals, service stations and places for the accommodation, recreation or entertainment of visitors to the parks;

(k) the administration and use of roads, streets, highways, sidewalks, trails, wharves, docks, bridges and other ways within the parks, and the circumstances under which those ways shall be open or may be closed to public traffic or use, but the establishment or use of any such existing ways or any additional ways shall in no case operate to withdraw those ways from the parks within which, they are situated;

(o) prescribing the conditions under which any building, sign, placard, advertisement or other structure may be erected, the design and location of any such structure and the materials of which it may be constructed, the general maintenance and improvement of properties in the parks that have been leased, and the defining of zones for residential buildings, business buildings or areas in which only buildings of fire-proof or fire-resisting construction may be erected;

(w) the sale or forfeiture of lands for non-payment of taxes;

(y) the survey of public lands in parks, the making of plans of surveyed lands, the delimitation in such plans of the boundaries of towns, resort subdivisions, visitor centres and cemeteries, the designation of surveyed lands as towns, resort subdivisions or visitor centres and the subdividing of lands so designated;

(z) the granting of plots in cemeteries;

(ii) the establishment of development plans for the towns referred to in section 8.1;

(nn) authorizing a director-general or a superintendent to vary the requirements of any of the regulations made under this subsection in the circumstances described and to the extent provided therein;

R.S.C. 1985, c. 28 (3rd Supp.), s. 359[Sch., item 7];

R.S.C. 1985, c. 39 (4th Supp.), s. 5;

S.C. 1996, c. 10, s. 246.

*Towns of Banff and Jasper***PART II****Boundaries of towns**

8.1 The Governor in Council may, following the holding of a public hearing in the town of Banff in relation to the boundaries thereof, or in the town of Jasper in relation to the boundaries thereof, fix those boundaries by an order adding a description of them as a schedule to this Act, but a schedule so added is not subject to amendment by the Governor in Council.

added, R.S.C. 1985, c. 39 (4th Supp.), s. 7.

Local government

8.2 The Governor in Council may authorize the Minister to enter into agreements with the government of Alberta for the establishment of local government bodies for the towns of Banff and Jasper and to entrust to those bodies such local government functions as are specified in those agreements.

added, R.S.C. 1985, c. 39 (4th Supp.), s. 7.

*Reserve for a National Park on the
Gwaii Haanas Archipelago*

Agreement with Haida Nation

8.5 (1) The Governor in Council may authorize the Minister to enter into an agreement with the Council of the Haida Nation respecting the management and operation of the lands described in Schedule VI, referred to in this section as the Gwaii Haanas Archipelago.

Reserve for National Park

(2) Pending the resolution of the disputes outstanding between the Haida Nation and the Government of Canada respecting their rights, titles and interests in or to the Gwaii Haanas Archipelago, the Governor in Council may, by order, set aside as a reserve for a National Park any portion of the Gwaii Haanas Archipelago or add to such a reserve any portion of the Archipelago.

Application of this Act

(3) This Act applies in respect of the reserve as if it were a park, subject to any regulations made under subsection (4).

added, S.C. 1992, c. 23, s. 1.

HISTORIC PARKS**Historic parks**

9. (1) The Governor in Council may set apart any land the title to which is vested in Her Majesty, as a National Historic Park to

- (a) commemorate a historic event of national importance; or
- (b) preserve any historic landmark or any object of historic, prehistoric or scientific interest of national importance.

Changes

(2) The Governor in Council may make any changes in the areas set apart under subsection (1) that the Governor in Council may consider expedient.

Application of sections 5, 7 and 8

10. The Governor in Council may, by order, apply to the areas set apart under subsection 9(1) such provisions of sections 5, 7 and 8 as he may consider advisable.

SCHEDULE I
(Section 3)

NOTE

Schedule I to the *National Parks Act* contains the official boundary descriptions of most National Parks. The parks described in Schedule I are listed in Table A1-1.

Boundaries of other National Parks are described in various other Acts, Proclamations or Agreements (see Tables A1-2 and A1-3).

SCHEDULE IV
(Section 8.1)

NOTE

Schedule IV to the *National Parks Act* contains a description of the boundaries of the town of Banff in Banff National Park as fixed in accordance with section 8.1.

SCHEDULE VI
(Section 8.5)

NOTE

Schedule VI to the *National Parks Act* contains a description of the boundaries of the Gwaii Haanas Archipelago as established by section 8.5 of the Act. The Governor in Council may, by order, set aside as a reserve for a National Park any portion of the Archipelago.

The above excerpts from the *National Parks Act* are from chapter N-14, *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 31 (1st Supp.), s. 39; RA 28.06.85; CIF 15.10.85 (SI/85-188).
- R.S.C. 1985, c. 28 (3rd Supp.), s. 359[Sch., item 7], RA 28.08.87; CIF 01.01.88 (SI/88-26).
- R.S.C. 1985, c. 39 (4th Supp.); RA 18.08.88; CIF 16.09.88 (SI/88-200).
- SOR/90-45; 27.12.89.
- S.C. 1992, c. 1, ss. 100 to 104; RA 28.02.92.
- S.C. 1992, c. 23; RA 18.06.92.
- S.C. 1994, c. 34, ss. 18, 19; RA 07.07.94; CIF 14.02.95 (SI/95-19).
- S.C. 1995, c. 11, s. 26; RA 15.06.95; CIF 12.07.96 (SI/96-68).
- S.C. 1996, c. 10, s. 246; RA 29.05.96; CIF 01.07.96 (SI/96-53).

EXPLANATORY NOTE

Establishment of Parks

The term "park" in the following paragraphs is deemed to include a National Park or a National Park Reserve.

A park may only be created in accordance with enabling legislation. The *National Parks Act* provides for the addition of lands to existing parks, but it must be amended to allow for the establishment of new parks. New parks are usually established in accordance with specific legislation such as the *Mingan Archipelago National Park Act*.

The manner in which new parks are established is provided for in the enabling legislation. The legislation may describe and set aside lands as a park, or it may authorize the Governor in Council to set aside, by proclamation, any lands within a defined area as a park. Upon the enactment of the legislation or proclamation the park is added to Schedule I of the *National Parks Act* or is made subject to that Act as if it were a park within the meaning of the Act.

The parks listed in Table A1-1 are described in Schedule I to the *National Parks Act*. The parks listed in Table A1-2 are subject to the *National Parks Act* as if they were parks within the meaning of that Act. All parks included in these two tables are Canada Lands as defined in section 24 of the *Canada Lands Surveys Act*.

The parks listed in Table A1-3 have not been formally established and are not subject to the *National Parks Act*. Legislation has been enacted to allow for the setting aside of certain lands to create these parks; however, the parks have yet to be proclaimed. Some lands have been acquired by Her Majesty the Queen in right of Canada for the purpose of creating these parks. These lands are not Canada Lands as defined in section 24 of the *Canada Lands Surveys Act* but are usually surveyed as such under the authority of section 47 of that Act.

TABLE A1-1

NATIONAL PARKS OF CANADA
(Described in Schedule I to the *National Parks Act*)

| PARKS | REFERENCES FOR CURRENT DESCRIPTION OF BOUNDARIES |
|--|---|
| Part I ■ Alberta (1) Banff National Park (2) Jasper National Park (3) Waterton Lakes National Park (4) Elk Island National Park (5) Wood Buffalo National Park | R.S.C. 1985, c. 39(4th Supp.), s. 9(1)[Sch. I, Part I]. R.S.C. 1985, c. 39(4th Supp.), s. 9(1)[Sch. I, Part I]; S.C. 1992, c. 1, s. 144[Sch. III, item 43] French version only. R.S.C. 1985, c. 39(4th Supp.), s. 9(2)[Sch. I, Part II]. R.S.C. 1985, c. 39(4th Supp.), s. 9(2)[Sch. I, Part II]. R.S.C. 1985, c. N-14, s. 3[Sch. I, Part I]; S.C. 1992, c. 23, s. 2. |
| Part II ■ British Columbia (1) Yoho National Park (2) Kootenay National Park (3) Glacier National Park (4) Mount Revelstoke National Park | R.S.C. 1985, c. N-14, s. 3[Sch. I, Part II]. R.S.C. 1985, c. N-14, s. 3[Sch. I, Part II]. R.S.C. 1985, c. N-14, s. 3[Sch. I, Part II]. R.S.C. 1985, c. 39(4th Supp.), s. 9(3)[Sch. I, Part III]; S.C. 1992, c. 1, s. 102. |
| Part III ■ Saskatchewan (1) Prince Albert National Park | R.S.C. 1985, c. N-14, s. 3[Sch. I, Part III]. |
| Part IV ■ Manitoba (1) Riding Mountain National Park | R.S.C. 1985, c. N-14, s. 3[Sch. I, Part IV]. |
| Part V ■ Ontario (1) Point Pelee National Park (2) St. Lawrence Islands National Park (3) Georgian Bay Islands National Park | R.S.C. 1985, c. 39(4th Supp.), s. 9(4)[Sch. I, Part IV]. R.S.C. 1985, c. 39(4th Supp.), s. 9(4)[Sch. I, Part IV]; S.C. 1992, c. 1, s. 103. R.S.C. 1985, c. 39(4th Supp.), s. 9(4)[Sch. I, Part IV]; S.C. 1992, c. 1, s. 103. |
| Part VI ■ New Brunswick (1) Fundy National Park (2) Kouchibouguac National Park | R.S.C. 1985, c. N-14, s. 3[Sch. I, Part VI]. R.S.C. 1985, c. 39(4th Supp.), s. 9(5)[Sch. I, Part V]. |
| Part VII ■ Prince Edward Island (1) Prince Edward Island National Park | R.S.C. 1985, c. 39(4th Supp.), s. 9(6)[Sch. I, Part VI]. |
| Part VIII ■ Nova Scotia (1) Cape Breton Highlands National Park (2) Kejimikujik National Park | R.S.C. 1985, c. 39(4th Supp.), s. 9(7)[Sch. I, Part VII]. R.S.C. 1985, c. N-14, s. 3[Sch. I, Part VIII]; R.S.C. 1985, c. 39(4th Supp.), s. 9(8). |
| Part IX ■ Newfoundland (1) Terra Nova National Park | R.S.C. 1985, c. 39(4th Supp.), s. 9(9)[Sch. I, Part VIII]. |
| Part X ■ Quebec (1) Forillon National Park (2) La Mauricie National Park | R.S.C. 1985, c. N-14, s. 3[Sch. I, Part X]. R.S.C. 1985, c. 39(4th Supp.), s. 9(10)[Sch. I, Part IX]. |
| Part XI ■ Yukon Territory (1) Northern Yukon National Park (2) Vuntut National Park (3) Kluane National Park | S.C. 1992, c. 1, s. 104. S.C. 1994, c. 34, s. 19. S.C. 1994, c. 34, s. 19. |

TABLE A1-2

NATIONAL PARKS OF CANADA

(Not Described in Schedule I of *National Parks Act*)

| PARKS | REFERENCES FOR CURRENT DESCRIPTION OF BOUNDARIES |
|--|--|
| Quebec | |
| Mingan Archipelago National Park Reserve . . | S.C. 1984, c. 34, s. 2 & [Sch.]. |
| Yukon | |
| Kluane National Park Reserve | Proclaimed 04.05.76; S.C. 1974, c. 11, s. 11 & [Sch. V, Part I]. |
| Northwest Territories | |
| Auyuittuq National Park Reserve | Proclaimed 04.05.76; S.C. 1974, c. 11, s. 11 & [Sch. V, Part III]. |
| Ellesmere Island National Park Reserve | S.C. 1988, c. 48, s. 12 [Sch. III]. |
| Nahanni National Park Reserve | Proclaimed 04.05.76; S.C. 1974, c. 11, s. 11 & [Sch. V, Part II]. |

TABLE A1-3

NATIONAL PARKS OF CANADA

(Not formally established, proclamation pending)

| PARKS | REMARKS |
|--|---|
| British Columbia | |
| Pacific Rim National Park Reserve | establishment authorized by S.C. 1988, c. 48, s. 15 |
| South Moresby / Gwaii Haanas National Park Reserve and Marine Park Reserve | establishment authorized by R.S.C. 1985, c. N-14, s. 8.5. |
| Saskatchewan | |
| Grasslands National Park | establishment authorized by S.C. 1974, c. 11, s. 10 as amended by S.C. 1988, c. 48, s. 17. |
| Ontario | |
| Bruce Peninsula National Park | establishment authorized by S.C. 1974, c. 11, s. 10 as amended by S.C. 1988, c. 48, s. 17. |
| Pukaskwa National Park | establishment authorized by S.C. 1974, c. 11, s. 10. as amended by S.C. 1988, c. 48, s. 17. |
| Newfoundland | |
| Gros Morne National Park | establishment authorized by S.C. 1974, c. 11, s. 10 as amended by S.C. 1988, c. 48, s. 17. |

Northern Pipeline Act

An Act to establish the Northern Pipeline Agency, to facilitate the planning and construction of a pipeline for the transmission of natural gas from Alaska and Northern Canada and to give effect to the Agreement between Canada and the United States of America on principles applicable to a Northern natural gas pipeline

Excerpts from
Chapter N-26, R.S.C. 1985
 As amended

SHORT TITLE

Short title

1. This Act may be cited as the Northern Pipeline Act.

telegraph or radio, and real and personal property and works connected therewith.

R.S.C. 1985, c. 28 (1st Supp.), s. 50.

INTERPRETATION

Definitions

2. (1) In this Act.

"Agreement"

"Agreement" means the Agreement between Canada and the United States dated September 20, 1977, set out in Schedule I, and includes any exchange of notes between Canada and the United States amending Annex III of the Agreement to give effect to a report of the Board, dated February 17, 1978, in which the Board indicated it would include in its decision approving, pursuant to this Act, pipeline specifications, a requirement for a fifty-six inch diameter pipe with a maximum allowable operating pressure of 1,080 psi for that portion of the pipeline between Whitehorse, Yukon Territory and Caroline, Alberta;

"designated officer"

"designated officer" means the member of the Board who is designated under subsection 6(2) as Administrator or under subsection 6(4) as a deputy to the Administrator;

"Minister"

"Minister" means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act;

"pipeline"

"pipeline" means the pipeline for the transmission of natural gas from Alaska across Canada along the route set out in Annex I to the Agreement and includes all branches, extensions, tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone,

Binding on Her Majesty

3. This Act is binding on Her Majesty.

PART I

NORTHERN PIPELINE AGENCY

Establishment of Agency

Powers of designated officer

7. (1) The designated officer may, in respect of the pipeline, exercise and perform such of the powers, duties and functions of the Board under the National Energy Board Act, except those under Part II, Sections 47 to 52, subsection 54(1), sections 56 and 58, Part IV, section 74, and Parts VI and VIII of that Act, as may be delegated to him by order of the Board.

Certification of documents

(2) The designated officer may, in respect of the pipeline, certify copies of

(a) the approved plan, profile and book of reference for the purpose of paragraph 31(d) of the *National Energy Board Act*; and

(b) any permit issued under subsection 41(2) of that Act.

Native Claims

Native claims unaffected

25. Notwithstanding this Act, any native claim, right, title or interest that the native people of Canada may have had prior to April 13, 1978 in and to the land on which the pipeline will be situated continues to exist

until a settlement in respect of any such claim, right, title or interest is effected.

PART III

REAL PROPERTY

Commissioner's lands

37. (1) Where the right to the beneficial use or the proceeds of lands in the Yukon Territory vested in Her Majesty in right of Canada is appropriated to the Commissioner of that Territory and the Governor in Council is of the opinion that those lands are required temporarily or otherwise for the construction, maintenance or operation of the pipeline including, without limiting the generality of the foregoing, lands required for camps, roads and other related works, the Governor in Council may, after consultation with the Commissioner in Council, by order, transfer the administration those lands to the Minister.

Company to provide plans of lands required

(2) Foothills Pipe Lines (South Yukon) Ltd. shall provide the Minister with a copy of all plans, profiles and books of reference certified by the designated officer pursuant to subsection 7(2) showing the lands in the Yukon Territory vested in Her Majesty in right of Canada that are required to permit construction of the pipeline.

Grant of easement to company

(3) Where Foothills Pipe Lines (South Yukon) Ltd. provides the Minister with a copy of the plans, profiles and books of reference referred to in subsection (2), the Governor in Council may authorize, on such terms and conditions as he considers appropriate, the grant of an easement to Foothills Pipe Lines (South Yukon) Ltd. for the construction of the pipeline and, on the giving of leave to open the last section or part of the pipeline by the Board and subject to subsection (4), for the purpose of the operation and maintenance thereof.

Company to file plan of survey

(4) Within two years after leave to open the last section or part of the pipeline has been given by the Board or such further period, not exceeding six months, as the Governor in Council may approve, Foothills Pipe Lines (South Yukon) Ltd. shall send to the Surveyor General at Ottawa a plan of survey under Part II of the *Canada Lands Surveys Act*, for confirmation by the Surveyor General under that Act, as an official plan in respect of lands in the Yukon Territory vested in Her Majesty in right of Canada required for the maintenance and operation of the pipeline.

S.C. 1991, c. 50, s. 34.

ANNEX I

The Pipeline Route

In Canada (Yukon Territory):

In Canada the Pipeline will commence at the Boundary of the State of Alaska and the Yukon Territory in the vicinity of the towns of Border City, Alaska and Boundary, Yukon. The following describes the general routing of the Pipeline in Canada:

From the Alaska-Yukon border, the Foothills Pipe Lines (South Yukon) Ltd. portion of the Pipeline will proceed in a southerly direction generally along the Alaska Highway to a point near Whitehorse, Yukon, and thence to a point on the Yukon-British Columbia border near Watson Lake, Yukon where it will join with the Foothills Pipe Lines (North B.C.) Ltd. portion of the Pipeline.

The above excerpts of the *Northern Pipeline Act* are from chapter N-26 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 28 (1st Supp.), s. 50; RA 20.06.85; CIF 30.06.85 (SI/85-128);
- S.C. 1990, c. 8, s. 59; RA 29.03.90; CIF 01.02.92 (SI/92-6);
- S.C. 1991, c. 50, s. 34; RA 17.12.91; CIF 15.09.92 (SI/92-151);
- S.C. 1993, c. 34, ss. 97, 98; RA 23.06.93.

Northwest Territories Act

An Act respecting the Northwest Territories

Excerpts from
Chapter N-27, R.S.C. 1985
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Northwest Territories Act*.

(b) the islands in Hudson Bay, James Bay and Ungava Bay, except those islands that are within the Province of Manitoba, the Province of Ontario or the Province of Quebec.

S.C. 1993, c. 41, s. 9.

INTERPRETATION*Definitions*

2. In this Act,

"Commissioner"

"Commissioner" means the Commissioner of the Northwest Territories;

"Commissioner in Council"

"Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council;

"Council"

"Council" means the Council of the Northwest Territories;

"Court"

"Court" means the Supreme Court of the Northwest Territories;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"ordinance"

"ordinance" includes an ordinance of the Territories passed before, on or after April 1, 1955;

"public lands"

"public lands" means any land, and any interest in any land, in the Territories that belongs to Her Majesty in right of Canada or of which the Government of Canada has power to dispose;

"Territories"

"Territories" means the Northwest Territories, which comprise

(a) all that part of Canada north of the sixtieth parallel of north latitude, except the portions thereof that are within the Yukon Territory, the Province of Quebec or the Province of Newfoundland, and

PART I**GOVERNMENT***Commissioner**Appointment*

3. The Governor in Council may appoint for the Territories a chief executive officer called the Commissioner of the Northwest Territories.

Deputy Commissioner

4. (1) The Governor in Council may appoint a Deputy Commissioner of the Territories.

Powers of Deputy Commissioner

(2) If the Commissioner is absent, ill or unable to act or the office of Commissioner is vacant, the Deputy Commissioner has and may exercise and perform all the powers and functions of the Commissioner.

Administration of government

5. The Commissioner shall administer the government of the Territories under instructions from time to time given by the Governor in Council or the Minister.

Executive powers

6. The executive powers that were, immediately before September 1, 1905, vested by any laws of Canada in the Lieutenant Governor of the Northwest Territories or in the Lieutenant Governor of the Northwest Territories in Council shall be exercised by the Commissioner so far as they are applicable to and capable of being exercised in relation to the

government of the Territories as it is constituted at the time of the exercise of those powers.

Council

Council established

9. (1) There is hereby established a Council of the Northwest Territories the members of which shall be elected to represent such electoral districts in the Territories as are named and described by the Commissioner in Council.

Legislative Powers of Commissioner in Council

Legislative powers

16. The Commissioner in Council may, subject to this Act and any other Act of Parliament, make ordinances for the government of the Territories in relation to the following classes of subjects:

(c) municipal institutions in the Territories, including local administrative districts, school districts, local improvement districts and irrigation districts;

(h) property and civil rights in the Territories;

(n.1) the management and sale of the properties referred to in subsection 44(1) and of the timber and wood thereon;

(o) the closing up, varying, opening, establishing, building, management or control of any roads, streets, lanes or trails on public lands;

(t) generally, all matters of a merely local or private nature in the Territories;

(v) such other matters as may be designated by the Governor in Council.

S.C. 1993, c. 41, s. 10.

Restriction on powers

17. Nothing in section 16 shall be construed as giving the Commissioner in Council greater powers with respect to any class of subjects described therein than are given to legislatures of the provinces under sections 92 and 95 of the Constitution Act, 1867, with respect to similar subjects therein described.

Laws Applicable to the Territories

Laws of England

22. (1) Subject to this Act, the laws of England relating to civil and criminal matters, as such laws existed on July 15, 1870, are in force in the Territories, in so far as they are applicable to the Territories and in so far as they have not been or are not hereafter

repealed, altered, varied, modified or affected in respect of the Territories by any Act of the Parliament of the United Kingdom or of the Parliament of Canada or by any ordinance.

Laws applicable to Inuit

(2) All laws of general application in force in the Territories are, except where otherwise provided, applicable to and in respect of Inuit in the Territories.

PART III

GENERAL

Lands

Lands vested in Her Majesty

44. (1) The following properties are and remain vested in Her Majesty in right of Canada:

(a) lands acquired with territorial funds before, on or after April 1, 1955;

(b) public lands, the administration and control of which has before, on or after April 1, 1955 been transferred by the Governor in Council to the Commissioner;

(c) all roads, streets, lanes and trails on public lands; and

(d) lands acquired by the Commissioner pursuant to tax sale proceedings.

Administration and control

(2) The Commissioner has the administration and control of the properties referred to in subsection (1) and may use, sell or otherwise dispose of them and retain the proceeds of the use or disposition.

Transfer to Minister

(3) The Commissioner may, with the approval of the Governor in Council, transfer, either in perpetuity or for any lesser term, the administration and control of the entire or any lesser interest in any property referred to in subsection (1) to any Minister of the Government of Canada.

S.C. 1993, c. 41, s. 11.

Transfer to Commissioner

44.1 The Governor in Council may transfer, either in perpetuity or for any lesser term, the administration and control of the entire or any lesser interest in any public lands to the commissioner.

added, S.C. 1993, c. 41, s. 12.

The above excerpts of the *Northwest Territories Act* are from chapter N-27 of the *Revised Statutes of Canada, 1985*, as amended by:

- R.S.C. 1985, c. 27 (1st Supp.), s. 203; RA 20.06.85; s. 203 CIF 04.12.85 (SI/85-211).
- R.S.C. 1985, c. 27 (2nd Supp.), s. 8; RA 27.06.86; s. 8 CIF 23.07.86 (SI/86-146).
- R.S.C. 1985, c. 31 (4th Supp.), s. 98; RA 28.07.88; s. 98 CIF 15.09.88 (SI/88-197).
- S.C. 1990, c. 48, s. 1; RA 21.12.90.
- S.C. 1992, c. 6, s. 1; RA 31.03.92; CIF 01.04.92(s. 2).
- S.C. 1993, c. 34, s. 99; RA 23.06.93.
- S.C. 1993, c. 41, ss. 9 to 12; RA 23.06.93.

Northwest Territories Waters Act

An Act respecting water resources in the Northwest Territories

Excerpts from
Chapter 39, S.C. 1992
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Northwest Territories Waters Act*.

INTERPRETATION

Definitions

2. In this Act,

"appurtenant undertaking"

"appurtenant undertaking" means the work described in a licence;

"Board"

"Board" means the Northwest Territories Water Board established by section 10;

"licence"

"licence" means a type A or type B licence permitting the use of waters or the deposit of waste, or both, issued pursuant to section 14;

"licensee"

"licensee" means the holder of a licence;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"territorial lands"

"territorial lands" means lands in the Northwest Territories that are vested in Her Majesty in right of Canada or of which the Government of Canada has power to dispose;

"waters"

"waters" means any inland water, whether in a liquid or frozen state, on or below the surface of the land in the Northwest Territories.

GENERAL

Her Majesty

Binding on Her Majesty

3. This Act is binding on Her Majesty in right of Canada, except that Her Majesty in right of Canada is not required to pay any fee prescribed by regulations made under subparagraph 33(1)(k)(i) or (ii).

Waters vested in Her Majesty

4. Subject to any rights, powers or privileges granted pursuant to the *Dominion Water Power Act* or preserved under that Act, the property in and the right to the use and flow of all waters are vested in Her Majesty in right of Canada.

Application of Other Acts

Other Acts, etc., to be complied with

5. Nothing in this Act, the regulations or a licence authorizes a person to contravene or fail to comply with any other Act or any regulation or order made thereunder, except as provided in that other Act, regulation or order.

Delegation to Northwest Territories Minister

Delegation to Northwest Territories Minister

6. The Minister may, in writing, delegate to the person occupying the recognized position of Minister of the Northwest Territories responsible for water resources any of the Minister's functions under section 10, subsections 13(1) and 14(6), section 20, paragraph 21(3)(c), subsection 23(4), paragraph 24(b) and section 31, either generally or as otherwise provided in the instrument of delegation.

OBJECTS AND POWERS OF BOARD

Objects

12. The objects of the Board are to provide for the conservation, development and utilization of waters in a manner that will provide the optimum benefit therefrom for all Canadians and for the residents of the Northwest Territories in particular.

RIGHTS AND DUTIES OF LICENSEES AND OTHERS

Permission to expropriate

31. (1) An applicant for a licence, or a licensee, may apply to the Board for permission from the Minister to expropriate, in accordance with the *Expropriation Act*, land or an interest in land in the Northwest Territories, and where the Minister, on the recommendation of the Board, is satisfied that

- (a) the lands or interest are reasonably required by the applicant or licensee for use in relation to the appurtenant undertaking, and
- (b) the applicant or licensee has made reasonable efforts to acquire the lands or interest and has been unable to do so and it is in the public interest that such permission be granted to the applicant or licensee,

the Minister may, in writing, grant the permission.

Notice to appropriate minister

(2) Where the Minister grants permission under subsection (1), the applicant or licensee shall so advise the appropriate minister in relation to Part I of the *Expropriation Act*.

Expropriation Act

(3) For the purposes of the *Expropriation Act*, land or an interest in land in respect of which the Minister has granted permission under subsection (1) is deemed to be an interest in land that, in the opinion of the appropriate minister in relation to Part I of the *Expropriation Act*, is required for a public work or other public purpose, and a reference to the Crown in that Act shall be construed as a reference to the applicant or licensee.

profile and book of reference in subsections 166(2) and (3) of the *Railway Act*; and

(c) the reference to enforcement by the Commission in section 167 of the *Railway Act* shall be read as a reference to enforcement by the Board as if the undertaking referred to in that section were a condition of the licensee's licence.

Copy of document evidencing permission to be deposited

(4) A copy of the document evidencing the permission granted by the Minister pursuant to subsection (1), certified as such by the chairperson or vice-chairperson of the Board, shall be deposited with the registrar or registrars of titles for the land registration district or districts in which the lands affected by the permission are situated.

Exceptions

(6) This section does not apply in respect of

- (a) territorial lands; or
- (b) lands belonging to any railway company that are used or required by the company for the purposes of its railway.

S.C. 1996, c. 10, s. 248.

REGULATIONS AND ORDERS

Reservation of lands from disposition

34. (1) The Governor in Council may, by order, reserve from disposition under any enactment relating to the disposition of territorial lands, for a specified period or otherwise, all or any interests in any territorial lands under the management, charge and direction of the Minister where the interests are, in the opinion of the Governor in Council, required

- (a) for the protection of any waters; or
- (b) in connection with any undertaking the development or operation of which is, in the opinion of the Governor in Council, in the public interest and that would require the use of those interests in lands and of waters adjacent to those lands.

Coming into Force

Northwest Territories Waters Act
Chapter 39, S.C. 1992; RA 23.06.92
CIF 15.06.93 (s. 51 and SI/93-88).

The above excerpts of the *Northwest Territories Waters Act* are from chapter 39 of the *Statutes of Canada, 1992*, as amended by:

- S.C. 1994, c. 26, s. 48; RA 23.06.94; CIF 15.06.93 (s. 48(2)).
- S.C. 1996, c. 10, s. 248; RA 29.05.96; CIF 01.07.96 (SI/96-53).

Resources and Technical Surveys Act
An Act respecting resources and technical surveys

Excerpts from
Chapter R-7, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Resources and Technical Surveys Act*.

hydrographic, hydrogeological, geotechnical, oceanographic meteorological and other similar surveys.

S.C. 1994, c. 41, s. 33.

INTERPRETATION

Definitions

2. In this Act,

"Department"

"Department" means the Department of Natural Resources;

"Minister"

"Minister"

(a) with respect to technical surveys relating to any matter to which the powers, duties and functions of the Minister of the Environment extend by law, and any powers, duties and functions under this Act that relate to any such matter, means the Minister of the Environment,

(b) with respect to technical surveys relating to any matter to which the powers, duties and functions of the Minister of Fisheries and Oceans extend by law, and any powers, duties and functions under this Act that relate to any such matter, means the Minister of Fisheries and Oceans, and

(c) with respect to other technical surveys and all other powers, duties and functions under this Act, the Minister of Natural Resources;

"technical surveys"

"technical surveys" means geological, geophysical, geochemical, geographical, geodetic, topographical,

POWERS, DUTIES AND FUNCTIONS OF THE
MINISTER

Duties of the Minister

3. The Minister shall

(f) prepare and publish the maps, plans, sections, diagrams, drawings, documents and data that are necessary to illustrate and elucidate any reports of investigations and surveys made pursuant to this Act.

S.C. 1994, c. 41, s. 34.

Surveys

4. The Minister may, for the purpose of obtaining a basis for the representation of the mineral and mining resources and of the geographical and geological features of any part of Canada, cause the measurements, observations, investigations and physiographic, exploratory and reconnaissance surveys to be made that are necessary for or in connection with the preparation of maps, sketches, plans, sections or diagrams.

Distribution of specimens and publications

5. The Minister may authorize the distribution or sale of products, data, duplicate specimens, maps and other documents produced or issued by or on behalf of the Department.

S.C. 1994, c. 41, s. 35.

The above excerpts of the *Resources and Technical Surveys Act* are from chapter R-7 of the *Revised Statutes of Canada, 1985*, as amended by:

- S.C. 1994, c. 41, ss. 33 to 35; RA 15.12.94; CIF 12.01.95 (SI/95-10).

Territorial Lands Act

An Act respecting Crown lands in the Yukon Territory and the Northwest Territories

Excerpts from
Chapter T-7, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the *Territorial Lands Act*.

INTERPRETATION

Definitions

2. In this Act,

"Crown"

"Crown" means Her Majesty in right of Canada;

"grant"

"grant" means letters patent under the Great Seal, a notification and any other instrument by which territorial lands may be granted in fee simple or for an equivalent estate;

"land"

"land" includes mines, minerals, easements, servitudes and all other interests in real property;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development or, in respect of any matter related to the Northern Pipeline referred to in the *Northern Pipeline Act*, the member of the Queen's Privy Council for Canada designated as the Minister for the purposes of that Act;

"permit"

"permit" means a permit issued under this Act;

"territorial lands"

"territorial lands" means lands in the Yukon Territory or the Northwest Territories that are vested in the Crown or of which the Government of Canada has power to dispose;

APPLICATION

Application

3. (1) Subject to subsection (2), this Act applies only in respect of territorial lands under the administration of the Minister.

Idem

(2) Sections 9 and 12 to 16 and paragraph 23(k) apply to territorial lands, and any interest therein, the administration and control of which is given to the Commissioner of the Yukon Territory by section 47 of the *Yukon Act* or to the Commissioner of the Northwest Territories by section 44 of the *Northwest Territories Act*.

Idem

(3) Nothing in this Act shall be construed as limiting the operation of the *Yukon Quartz Mining Act*, the *Yukon Placer Mining Act*, the *Dominion Water Power Act* or the *National Parks Act*.

Provisions not applicable in N.W.T.

(4) Sections 17 and 18, paragraph 23(e) so far as it relates to forest experimental areas and national forests, paragraph 23(g) so far as it relates to timber districts and subsection 30(2) do not apply in respect of lands in the Northwest Territories.

R.S.C. 1985, c. 7 (3rd Supp.), s. 2;

S.C. 1991, c. 50, s. 45;

S.C. 1993, c. 41, s. 13.

LAND MANAGEMENT ZONES

Land management zones

4. Subject to section 6, the Governor in Council may, where he deems it necessary for the protection of the ecological balance or physical characteristics of any area in the Yukon Territory or the Northwest Territories, set apart and appropriate any territorial lands in that area as a land management zone.

Regulations concerning zones

5. Subject to section 6, the Governor in Council may make regulations respecting

- (a) the protection, control and use of the surface of land in a land management zone set apart and appropriated under section 4; and

(b) the issue of permits for the use of the surface of land in a land management zone, the terms and conditions of those permits and the fees therefor.

SALE OR LEASE OF TERRITORIAL LANDS

Authorizing sale, lease, etc.

8. Subject to this Act, the Governor in Council may authorize the sale, lease or other disposition of territorial lands and may make regulations authorizing the Minister to sell, lease or otherwise dispose of territorial lands subject to such limitations and conditions as the Governor in Council may prescribe.

MINING RIGHTS

Leasing of mining rights

12. The Governor in Council may make regulations for the leasing of mining rights in, under or on territorial lands and the payment of royalties therefor, but such regulations shall provide for the protection of and compensation to the holders of surface rights.

RESERVATION FROM GRANTS

Reservation

13. Unless otherwise ordered by the Governor in Council, a strip of land one hundred feet in width, measured from ordinary high water mark or from the boundary line, as the case may be, shall be deemed to be reserved to the Crown out of every grant of territorial lands where the land extends

- (a) to the sea or an inlet thereof;
- (b) to the shore of any navigable water or an inlet thereof; or
- (c) to the boundary line between the Yukon Territory and Alaska, or between the Yukon Territory and the Northwest Territories, or between the Yukon Territory or the Northwest Territories and the Province of Manitoba, Saskatchewan, Alberta or British Columbia.

Reservation of bed of body of water

14. Unless the grant contains a provision to the contrary, the bed, below ordinary high water mark, of a body of water shall be deemed to be reserved to the Crown out of every grant of territorial lands where the lands border a body of water.

Other reservations

15. There shall be deemed to be reserved to the Crown out of every grant of territorial lands

- (a) all mines and minerals whether solid, liquid or gaseous that may be found to exist in, under or on those lands, together with the right to work the mines and minerals and for this purpose to enter on, use and occupy the lands or so much thereof and to such extent as may be necessary for the working and extraction of the minerals; and
- (b) all rights of fishery and fishing and occupation in connection therewith on or around or adjacent to those lands.

Grant does not convey water rights

16. Unless the grant or other document establishing a grant, lease or other disposition of territorial lands expressly states the contrary, no grant, lease or other disposition of territorial lands conveys any exclusive right, privilege, property or interest with respect to any lake, river, stream or other body of water, within, bordering or passing through the lands.

POWERS OF THE GOVERNOR IN COUNCIL

Powers of Governor in Council

23. The Governor in Council may

- (a) on setting out the reasons for withdrawal in the order, order the withdrawal of any tract or tracts of territorial lands from disposal under this Act;
- (b) set apart and appropriate territorial lands for the sites of places of public worship, burial grounds, schools, market places, jails, court houses, town halls, public parks or gardens, hospitals, harbours, landings, bridge sites, airports, landing fields, railway stations, town-sites, historic sites or for other public purposes and, at any time before the issue of a grant, alter or revoke those appropriations;
- (c) order that grants or leases for a nominal consideration be made of the lands appropriated under paragraph (b) and that there be expressed in any grant or lease the trusts and uses to which the territorial lands granted or leased thereby are subject;
- (d) set apart and appropriate such areas or lands as may be necessary
 - (i) to enable the Government of Canada to fulfil its obligations under treaties with the Indians and to make free grants or leases for that purpose, or

(ii) for any other purpose that the Governor in Council may consider to be conducive to the welfare of the Indians;

(e) set apart and appropriate territorial lands for use as forest experimental areas, national forests, game preserves, game sanctuaries, bird sanctuaries, public shooting grounds, public resorts or for any other similar public purpose;

(g) divide territorial lands into mining districts, land districts and timber districts;

(i) prescribe a tariff of fees for copies of maps, plans, field notes, documents, papers and other records pertaining to territorial lands, and for the preparation of documents evidencing a sale, lease or other disposition of territorial lands and for the registration of any documents pertaining to territorial lands;

(j) make regulations respecting the protection, control and use of the surface of territorial lands;

(l) make such orders and regulations as are deemed necessary to carry out the purposes and provisions of this Act.

S.C. 1994, c. 26, s. 68.

Publication in the Canada Gazette

24. A copy of

(a) each order setting apart and appropriating any territorial lands as a land management zone that the Governor in Council proposes to make under section 4, and

(b) each regulation or amendment to a regulation that the Governor in Council proposes to make under section 5 or paragraph 23(j),

shall be published in the *Canada Gazette* and a reasonable opportunity shall be afforded to all interested persons to make representations to the Minister with respect thereto.

GENERAL

Execution of documents

26. Any lease, agreement, license, permit or notice of cancellation issued or made pursuant to this Act and any consent to any assignment of any such lease, agreement, license or permit may be executed on behalf of the Crown by the Minister, the Deputy Minister or by any other officer of the Department authorized in writing for the purpose by the Minister.

Government employees

29. (1) Except by or under the authority of an order of the Governor in Council, no officer or employee of or under the Government of Canada shall

(a) directly or indirectly, in his own name or in the name of any other person, purchase or acquire any territorial land or any interest therein; or

(b) be interested as shareholder or otherwise in any corporation that purchases, acquires or holds any territorial land or any interest therein.

The above excerpts of the *Territorial Lands Act* are from chapter T-7 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 7 (3rd Supp.), s. 2; RA 26.03.87; CIF 01.04.87 (s. 7).
- S.C. 1991, c. 50, s. 45; RA 17.12.91; CIF 15.09.92 (SI/92-151).
- S.C. 1993, c. 41, ss. 13, 14; RA 23.06.93.
- S.C. 1994, c. 26, s. 68; RA 23.06.94.

Territorial Sea and Fishing Zones Act

An Act respecting the territorial sea and fishing zones of Canada

Excerpts from
Chapter T-8, R.S.C. 1985
As amended

SHORT TITLE*Short Title*

1. This Act may be cited as the *Territorial Sea and Fishing Zones Act*.

APPLICATION*Applies to Acts of Parliament, regulations, etc.*

2. Every provision of this Act extends and applies to every Act of Parliament, whether enacted before or after the commencement of this Act, and to every order, rule or regulation thereunder, except in so far as any such provision is inconsistent with the intent or object of any such Act, order, rule or regulation, or would give to any word, expression or clause thereof an interpretation repugnant to the subject-matter or the context, or is, in any such Act, order, rule or regulation, declared not applicable thereto.

TERRITORIAL SEA AND INTERNAL WATERS*Territorial sea*

3. (1) Subject to any exceptions under section 5, the territorial sea of Canada comprises those areas of the sea having, as their inner limits, the baselines described in that section and, as their outer limits, lines measured seaward and equidistant from those baselines so that each point of the outer limit line of the territorial sea is distant twelve nautical miles from the nearest point of the baseline.

Internal waters

(2) The internal waters of Canada include any areas of the sea that are on the landward side of the baselines of the territorial sea of Canada.

POWERS OF THE GOVERNOR IN COUNCIL*Determination of baselines*

5. (1) The Governor in Council may, by order, issue one or more lists of geographical coordinates of points from which baselines may be determined.

Baselines where coordinates listed

(2) In respect of any area for which geographical coordinates of points have been listed in a list issued pursuant to subsection (1) and subject to any exceptions in the list for the use of the low water line along the coast between given points and the use of the low water lines of low tide elevations situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the coast, baselines are straight lines joining the consecutive geographical coordinates of points so listed.

Baselines where historic title

(3) In respect of any area not referred to in subsection (2), baselines are the outer limits of any area, other than the territorial sea of Canada, over which Canada has a historic or other title of sovereignty.

Baselines in other areas

(3.1) In respect of any area not referred to in subsection (2) or (3), baselines are the low, water lines along the coast or along any low tide elevation situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the coast.

Substitution of outer limit lines in certain cases

(4) Where, in his opinion, a portion of the territorial sea of Canada determined in accordance with subsection 3(1) would conflict with the territorial sea or the fishing zones of a country other than Canada or would be unreasonably close to the coast of a country other than Canada, the Governor in Council may, by order, issue a list of geographical coordinates of points from which, in respect of the portion of the territorial sea of Canada designated in the list, an outer limit line may be determined in substitution for the territorial sea

outer limit line described in subsection 3(1), and the outer limit line so determined shall thereupon be substituted.

Low tide elevations

(5) For the purposes of subsection (2), low tide elevations are naturally formed areas of land that are surrounded by and above water at low tide but submerged at high tide.

S.C. 1990, c. 44, s. 19.

CHARTS

Issue of charts

6. The Minister of Fisheries and Oceans may cause charts to be issued delineating the territorial sea of Canada and the fishing zones of Canada or any portions thereof as may be delineated consistent with the nature and scale of the charts.

The above excerpts of the *Territorial Sea and Fishing Zones Act* are from chapter T-8 of the *Revised Statutes of Canada, 1985* as amended by:

- S.C. 1990, c. 44, s. 19; RA 17.12.90; CIF 04.02.91 (SI/91-18).

Weights and Measures Act

An Act respecting weights and measures

Excerpts from
Chapter W-6, R.S.C. 1985
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Weights and Measures Act*.

therefor are as set out and defined units in Parts I, II and III of Schedule I, respectively.

INTERPRETATION*Definitions*

2. In this Act,

"device"

"device" means any weight, weighing machine, static measure or measuring machine and includes any equipment and accessories attached to or used in conjunction with the device that have or can have an effect on the accuracy of the device;

"measure"

"measure", when used as a verb, includes weigh and, when used as a noun, includes weight;

"Minister"

"Minister" means the Minister of Industry;

"trade"

"trade" means the selling, purchasing, exchanging, consigning, leasing or providing of any commodity, right, facility or service on the basis of measure and includes the business of providing facilities for measuring;

S.C. 1995, c. 1, ss. 62, 63.

Customary units

(3) In addition to the units of measurement otherwise referred to in this section, the customary units of measurement and the symbols therefor as set out and defined in Part IV of Schedule I may be used in Canada, which units of measurement are commonly used with the International System of Units.

Multiples and submultiples of units

(4) The prefixes for multiples and submultiples of the units of measurement referred to in subsection (2) and the symbols therefor are as set out and defined in Part V of Schedule I.

Canadian units

(5) The Canadian units of measurement are as set out and defined in Schedule II, and the symbols and abbreviations therefor are as added pursuant to subparagraph 6(1)(b)(ii).

Seigneurial tenure

5. Notwithstanding section 7, the units of measurement set out and defined in Schedule III may be used to describe land in the Province of Quebec that was originally granted under seigneurial tenure.

UNITS OF MEASUREMENT*Basis for units of measurement*

4. (1) All units of measurement used in Canada shall be determined on the basis of the International System of Units established by the General Conference of Weights and Measures.

Basic, supplementary and derived units

(2) The basic, supplementary and derived units of measurement for use in Canada and the symbols

USE OF UNITS OF MEASUREMENT*Use of units of measurement*

7. No person shall, in trade, use or provide for the use of a unit of measurement unless

(a) that unit of measurement is set out and defined in Schedule I or II; or

(b) the use of that unit of measurement is authorized by the regulations.

REGULATIONS

Regulations

10. (1) The Governor in Council may make regulations
- (b) prescribing a date beyond which a class, type or design of device shall not be approved for use in trade unless it is capable of weighing or measuring in terms of units of measurement set out and defined in Schedule I;
 - (m) authorizing for any particular purpose the use of a unit of measurement that is not otherwise authorized under this Act;
 - (o) prescribing, in respect of any or all categories of trade and in respect of any or all class or classes of persons carrying on business therein, in any geographical areas of Canada, a date beyond which units of measurement set out and defined in Schedule II shall not be used in trade;

Publication of proposed regulations

(2) Subject to subsection (3), the Minister shall publish in the *Canada Gazette* a copy of each regulation that the Governor in Council proposes to make under paragraphs (1)(b), (j), (n) and (o) and a reasonable opportunity shall be afforded to interested persons to make representations with respect thereto.

Exception

(3) The Minister is not required to publish a proposed regulation if it has been published pursuant to subsection (2) whether or not it has been amended as a result of representations made by interested persons as provided in that subsection.

SCHEDULE I

(Sections 2, 4, 6, 7, 10 and 12)

UNITS BASED ON THE INTERNATIONAL SYSTEM OF UNITS

PART I

Basic Units of Measurement

| <i>Basic Unit</i> | <i>Symbol</i> | <i>Definition</i> |
|-------------------|---------------|---|
| 1. metre | m | the unit for the measurement of length; being a length equal to the distance travelled by light in a vacuum during 1/299 792 458 of a second. |
| 3. second | s | the unit for the measurement of time, being the duration of 9 192 631 770 periods of the radiation corresponding to the transition between the two hyperfine levels of the ground state of the caesium 133 atom |

PART II

Supplementary Units of Measurement

| <i>Supplementary Unit</i> | <i>Symbol</i> | <i>Definition</i> |
|---------------------------|---------------|--|
| 1. radian | rad | the unit for the measurement of a plane angle, being the angle with its vertex at the centre of a circle and subtended by an arc of the circle that is equal in length to its radius |

PART IV

Customary Units of Measurement used with the International System

| <i>Customary Unit</i> | <i>Symbol</i> | <i>Definition</i> |
|-----------------------|---------------|------------------------|
| degree (of arc) | ° | $\pi/180$ radian* |
| minute (of arc) | ' | $\pi/10\ 800$ radian* |
| second (of arc) | " | $\pi/648\ 000$ radian* |
| hectare | ha | 10^4 square metres |

* π is the ratio of the circumference to the diameter of a circle.

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SCHEDULE II

(Sections 2, 4, 6, 7, 10 and 12)

CANADIAN UNITS OF MEASUREMENT

| <i>Measurement of Length</i> | | <i>Measurement of Area</i> | |
|------------------------------|--------------------|----------------------------|---|
| <i>Unit of Measurement</i> | <i>Definition</i> | <i>Unit of Measurement</i> | <i>Definition</i> |
| (a) mile | 1 760 yards | (a) square mile | 640 acres |
| (b) furlong | 220 yards | (b) acre | 4 840 square yards |
| (c) rod, pole, or perch | 5 1/2 yards | (c) square rod | 30 1/4 square yards |
| (d) yard | 9 144/10 000 metre | (d) square yard | a superficial area equal to that of a square each side of which measures one yard |
| (e) foot | 1/3 yard | (e) square foot | 1/9 square yard |
| (f) inch | 1/36 yard | (f) square inch | 1/144 square foot |
| (g) chain | 22 yards | | |
| (h) link | 1/100 chain | | |

Measurement of Volume or Capacity

| <i>Unit of Measurement</i> | <i>Definition</i> |
|----------------------------|---|
| (i) cubic yard | a volume equal to that of a cube each side of which measures one yard |
| (j) cubic foot | 1/27 cubic yard |
| (k) cubic inch | 1/1 728 cubic foot |

SOR/86-854.

SCHEDULE III

(Section 5)

UNITS OF MEASUREMENT TO DESCRIBE CERTAIN LAND IN QUEBEC

| <i>Unit</i> | <i>Definition</i> |
|--|-------------------------------------|
| 1. foot (French measure or Paris foot) | 12.789 inches |
| 2. arpent, as a measure of length | 180 feet (French measure) |
| 3. arpent, as a measure of area | 32 400 square feet (French measure) |
| 4. perch, as a measure of length | 18 feet (French measure) |
| 5. perch, as a measure of area | 324 square feet (French measure) |

The above excerpts of the *Weights and Measures Act* are from chapter W-6 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 4 (1st Supp.); RA 31.03.82; CIF 25.01.86 (SI/86-20).
- R.S.C. 1985, c. 27 (1st Supp.), s. 202; RA 20.06.85; CIF 04.12.85 (SI/85-211).
- R.S.C. 1985, c. 31(1st Supp.), ss. 26, 106; RA 28.06.85; CIF 15.10.85 (SI/85-188).
- SOR/86-133; CIF 16.01.86.
- SOR/86-420; CIF 11.04.86.
- SOR/86-854; CIF 14.08.86.
- S.C. 1992, c. 1, s. 145[Sch. VIII, item 31]; RA 28.02.92.
- SOR/93-235; CIF 11.05.93.
- S.C. 1993, c. 34, s. 136; RA 23.06.93.
- S.C. 1995, c. 1, ss. 62, 63; RA 16.03.95; CIF 29.03.95 (SI/95-48).

Yukon Act

An Act respecting the Yukon Territory

Excerpts from
Chapter Y-2, R.S.C. 1985
As amended

SHORT TITLE

Short title

1. This Act may be cited as the Yukon Act.

INTERPRETATION

Definitions

2. In this Act,

"Commissioner"

"Commissioner" means the Commissioner of the Yukon Territory;

"Commissioner in Council"

"Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council;

"Council"

"Council" means the Council of the Yukon Territory;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"ordinance"

"ordinance" includes an ordinance of the Territory passed before, on or after April 1, 1955;

"public lands"

"public lands" means any lands, and any interest in any land, in the Territory that belongs to Her Majesty in right of Canada or of which the Government of Canada has power to dispose;

"Territory"

"Territory" means the Yukon Territory, which comprises the area described in the schedule.

S.C. 1993, c. 41, s. 15.

PART I

GOVERNMENT

*Commissioner**Appointment*

3. The Governor in Council may appoint for the Territory a chief executive officer called the Commissioner of the Yukon Territory.

Administration of government

4. The Commissioner shall administer the government of the Territory under instructions given by the Governor in Council or the Minister.

Administrator

5. The Governor in Council may appoint an Administrator to execute the office and functions of the Commissioner during his absence or illness or other inability or when the office of Commissioner is vacant.

*Council**Council established*

9. (1) There is hereby established a Council of the Yukon Territory, the members of which shall be elected to represent such electoral districts in the Territory as are named and described by the Commissioner in Council.

*Legislative Powers of Commissioner in Council**Legislative powers*

17. The Commissioner in Council may, subject to this Act and any other Act of Parliament, make ordinances for the government of the Territory in relation to the following classes of subjects:

(c) municipal institutions in the Territory, including municipalities, school districts, local improvement districts and irrigation districts;

(h) property and civil rights in the Territory;

(n.1) the management and sale of the properties referred to in subsection 47(1) and of the timber and wood thereon;

(o) the closing up, varying, opening, establishing, building, management or control of any roads, streets, lanes or trails on public lands;

(t) generally, all matters of a merely local or private nature in the Territory;

(v) such other matters as may be designated by the Governor in Council.

S.C. 1993, c. 41, s. 16.

Restriction on powers

18. Nothing in section 17 shall be construed as giving the Commissioner in Council greater powers with respect to any class of subjects described therein than are given to legislatures of the provinces under sections 92 and 95 of the *Constitution Act, 1867*, with respect to similar subjects therein described.

Laws Applicable to Territory

Existing laws continued

23. (1) Subject to this Act, the laws relating to civil and criminal matters and the ordinances in force in the Northwest Territories on June 13, 1898 are and remain in force in the Territory, in so far as they are applicable thereto, and in so far as they have not been or are not hereafter repealed, abolished or altered by Parliament or by any ordinance.

Laws applicable to Inuit

(2) All laws of general application in force in the Territory are, except where otherwise provided, applicable to and in respect of Inuit in the Territory.

PART III

GENERAL

Lands

Lands vested in Her Majesty

47. (1) The following properties are and remain vested in Her Majesty in right of Canada:

(a) lands acquired before, on or after April 1, 1955 with territorial funds;

(b) public lands, the administration and control of which has before, on or after April 1, 1955 been transferred by the Governor in Council to the Commissioner;

(c) all roads, streets, lanes and trails on public lands; and

(d) lands acquired by the Commissioner pursuant to tax sale proceedings.

Administration and control

(2) The Commissioner has the administration and control of the properties referred to in subsection (1) and may use, sell or otherwise dispose of them and retain the proceeds of the use or disposition.

Transfer to Minister

(3) The Commissioner may, with the approval of the Governor in Council, transfer, either in perpetuity or for any lesser term, the administration and control of the entire or any lesser interest in any property referred to in subsection (1) to any Minister of the Government of Canada.

S.C. 1993, c. 41, s. 17.

Transfer to Commissioner

47.1 The Governor in Council may transfer, either in perpetuity or for any lesser term, the administration and control of the entire or any lesser interest in any public lands to the Commissioner.

added, S.C. 1993, c. 41, s. 18.

SCHEDULE

(Section 2)

The Yukon Territory shall be bounded as follows: On the south, by the Province of British Columbia and the State of Alaska; on the west, by the said State of Alaska; on the north, by that part of the Arctic Ocean called Beaufort Sea; and on the east, by a line beginning at the intersection of the north boundary of British Columbia with a line passing through a boundary pipe post set in concrete, trench and mound, numbered 600, planted by the British Columbia-Yukon-Northwest Territories Boundary Commission approximately 1 chain westerly of the left bank of the Liard River, said line having a bearing of 309° with reference to the meridian through said post; thence northwesterly along said line to a point on the line of watershed separating the streams flowing into the Liard River below the La Biche River or into the Mackenzie River from those flowing into the La Biche River, into the Liard River above the La Biche River, or into the Yukon River;

thence northwesterly along said line of watershed to the line of watershed of the basin of Peel River; thence northerly along the line of watershed between the Peel and Mackenzie Rivers to the sixty-seventh degree of north latitude; thence westerly along the parallel of the sixty-seventh degree of north latitude to the line of watershed between, the Peel and Yukon Rivers; thence northerly along the said

line of watershed to the trail across the portage in McDougall Pass between Rat and Bell Rivers; thence due north to the northern limit of the Yukon Territory; the said Territory to include the islands within twenty statute miles from the shores of the Beaufort Sea as far as the aforesaid due north line from McDougall Pass.

The above excerpts of the *Yukon Act* are from chapter Y-2 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 27 (1st Supp.), s. 203; RA 20.06.85; CIF 04.12.85 (SI/85-211);
- R.S.C. 1985, c. 27 (2nd Supp.), s. 9; RA 27.06.86; CIF 23.07.86 (SI/86-146);
- R.S.C. 1985, c. 31 (4th Supp.), s. 99; RA 28.07.88; CIF 15.09.88 (SI/88-197);
- S.C. 1993, c. 34, s. 139; RA 23.06.93.
- S.C. 1993, c. 41, ss. 15 to 18; RA 23.06.93.
- S.C. 1994, c. 34, s. 20(3); RA 07.07.94; CIF 14.02.95 (SI/95-19).

Yukon Placer Mining Act

An Act respecting placer mining in the Yukon Territory

Excerpts from
Chapter Y-3, R.S.C. 1985
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Yukon Placer Mining Act*.

INTERPRETATION*Definitions*

2. (1) In this Act,

"base line"

"base line" of a creek or river means a traverse line following the general direction of the centre bottom lands of the valley of the creek or river, surveyed and established under the direction and with the approval of the Commissioner;

"claim" and "mining property"

"claim" means any parcel of land located or granted for placer mining, and "mining property" includes, besides claims, any ditches or water rights used for mining thereon, and all other things belonging thereto or used in the working thereof for mining purposes;

"Commissioner", "Commissioner in Council" and "Council"

"Commissioner", "Commissioner in Council" and "Council" have the same meaning as in the *Yukon Act*;

"creek"

"creek" means all natural watercourses, whether usually containing water or not, and that portion of any stream below the point where it enters the valley of the parent stream, but does not include streams that have an average width of one hundred and fifty feet;

"legal post"

"legal post" means a stake having a diameter throughout of not less than five inches, standing not less than four feet above the ground and flatted on two sides for at least one foot from the top, each of the sides so flatted measuring at least four inches across the face, and includes any stump or tree cut off and flatted or faced to that height and size;

"mine"

"mine" means any natural stratum or bed of earth, soil, gravel or cement that is mined for gold or other precious minerals or stones;

"mining" or "placer mining"

"mining" or "placer mining" includes every mode and whereby method of working whatever whereby earth, soil, gravel or cement may be removed, washed, shifted or refined or otherwise dealt with, for the purpose of obtaining gold or other precious minerals or stones, but does not include the working of rock on the site;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"Territory"

"Territory" means the Yukon Territory;

Mining districts

4. The Commissioner may, by proclamation published in the *Yukon Gazette*, divide the Territory into districts to be known as mining districts, and may, as occasion requires, change the boundaries of those districts.

Mining recorder

6. A mining recorder shall be appointed in each mining district, and within that district the mining recorder possesses all the powers and authority of a mining inspector.

Books open to public

9. All books of record and documents filed in the office of a mining recorder shall, during office hours, be open to public inspection free of charge.

RIGHT TO ACQUIRE CLAIMS

Who may locate claims

17. (1) Subject to this Act, any individual eighteen years of age or over, on his own behalf, on behalf of any corporation authorized to carry on business in the Territory or on behalf of any other individual eighteen years of age or over, may enter for mining purposes, locate, prospect and mine for gold and other precious minerals or stones on any lands in the Territory.

Restrictions on locating claims

- (2) Subsection (1) does not apply to lands
 - (a) to which the *National Parks Act* applies;
 - (b) used as a cemetery or burial ground;
 - (c) lawfully occupied for placer mining purposes;
 - (d) set apart and appropriated by the Governor in Council for any purpose described in paragraph 23(d) of the *Territorial Lands Act*;
 - (e) entry on which for the purpose of locating a claim or prospecting for gold or other precious minerals or stones is prohibited by an order under section 98, except on the terms and conditions, if any, set out in the order;
 - (f) under the administration of the Minister of National Defence, unless the consent of that Minister has been obtained in writing;
 - (g) within the boundaries of a city, town or village as defined by any ordinance of the Commissioner in Council, unless under regulations approved by the Governor in Council; or
 - (h) occupied by a building or within the curtilage of a dwelling-house.

S.C. 1991, c. 2, s. 1;

S.C. 1991, c. 50, s. 49.

Security for damages

18. (1) No person shall enter on for mining purposes or shall mine on lands owned or lawfully occupied by another person until adequate security is given, to the satisfaction of a mining recorder, for any loss or damage that may be thereby caused.

S.C. 1994, c. 43, s. 95.

Compensation

18.1 Persons locating, prospecting, entering on for mining purposes or mining on lands owned or lawfully occupied by another person shall make full compensation to the owner or occupant of the lands for any loss or damage so caused, which compensation, in case of dispute, shall be determined

by the Yukon Surface Rights Board in accordance with the *Yukon Surface Rights Board Act*.

added, S.C. 1994, c. 43, s. 95.

SIZE, FORM, ETC., OF CLAIMS

Nature and size of claims

19. (1) A claim on a creek shall not exceed five hundred feet in length, measured along the base line of the creek, established or to be established by a Government survey, as provided in this Act.

Side boundaries

(2) The side boundaries of a claim shall be lines on either side of the base line, parallel thereto and one thousand feet distant therefrom.

End boundaries

(3) The end boundaries of a claim shall be lines drawn at each end of the claim, at right angles to the base line, and extending not more than one thousand feet on either side thereof.

If base line not established

(4) In the event that the base line of a claim is not established, the claim may be staked along the general direction of the valley of the creek but, in that case, shall conform to the boundaries that the base line, when established, defines.

Claims elsewhere than on a creek

20. A claim situated elsewhere than on a creek shall not exceed five hundred feet in length, parallel to the base line of the creek toward which it fronts, by one thousand feet.

Claims fronting on a creek

21. A claim fronting on a creek or river shall be staked as nearly as possible parallel to the general direction of the valley of the creek or river and shall conform to the boundaries that the base line, when established, defines.

How measured

22. Claims shall be measured horizontally, irrespective of inequalities on the surface of the ground.

Form of claims

23. (1) Every claim on a creek shall be as nearly as possible rectangular in form and shall be marked by two legal posts firmly fixed in the ground on the base line at each end of the claim.

Idem

(2) A claim situated elsewhere than on a creek shall be as nearly as possible rectangular in form and shall be marked by two legal posts firmly fixed in the ground in a line parallel to the base line and on the side nearest the creek or river toward which it fronts.

Line between posts

(3) The line between the two legal posts shall be well cut out so that one post may, if the nature of the surface permits, be seen from the other.

Marking posts

(4) One of the flattened sides of each legal post shall face the claim, and on each post shall be written on the side facing the claim a legible notice stating the name or number of the claim, or both if possible, its length in feet, the date when staked and the full Christian name and surname of the locator of the claim.

Numbering of posts

(5) The legal posts shall be numbered 1 and 2 respectively, and it is not lawful to move them except that post No. 2 may be moved by a Canada Lands Surveyor if the distance between the posts exceeds the length prescribed by this Act, but not otherwise.

Saving

(6) Notwithstanding anything contained in this Act, failure on the part of a locator of a claim to comply with any of the provisions of this section shall not be deemed to invalidate the location, if, on the facts, it appears to the satisfaction of a mining recorder that there has been on the part of the locator an honest attempt to comply with this Act, and that the non-observance of the formalities referred to in this section is not of a character calculated to mislead other persons who desire to locate claims in the vicinity.

Size of discovery claims

24. Any person or party of persons who locate the first claim on any creek, hill, bench, bar or plain, or who locate a claim on any creek, hill, bench, bar or plain on which there is no recorded claim, is entitled to a claim or claims respectively of the following size:

- (a) one locator, one claim, fifteen hundred feet in length; and
- (b) a party of two or more locators, two claims, each one thousand two hundred and fifty feet in length, and, for each member of the party beyond two, a claim of the ordinary size only.

Extension of boundaries of claim

25. The boundaries of any claim may, by order of the Commissioner or a mining recorder, on application by

the owner thereof, be enlarged to the size of a claim allowed by this Act, if the enlargement will not interfere with any mining property that is owned by any other person or is subject to the terms of an agreement with the Crown.

LOCATING AND RECORDING

Forms

26. The forms of application for grant, of application for renewal of grant and of grant of a claim are those contained respectively in Forms 1, 22 and 3 of Schedule I.

Time allowed

27. (1) An application in duplicate for a grant of a claim shall be filed with the mining recorder for the district in which the claim is situated within ten days after the location thereof if it is located within ten miles of the office of the mining recorder.

Additional time

(2) One additional day shall be allowed for every additional ten miles or fraction thereof for filing an application under subsection (1).

When claims one hundred miles from mining recorder's office

30. (1) Where a claim is more than one hundred miles from the office of a mining recorder and situated where other claims are being located, the locators thereof, not less than five in number, are authorized to meet and appoint one of their number an emergency recorder, who may receive applications for grants of claims located in accordance with this Act.

Record of application

(2) The emergency recorder appointed under subsection (1) shall note on each application the day on which each application was received and the amount of fees paid in respect thereof.

Notification of applications

31. (1) The emergency recorder shall, as soon as possible after his appointment, notify the mining recorder for the district in which the claims are situated of his appointment, and he shall deliver personally or otherwise to that mining recorder the applications and fees received by him in respect of those claims.

Recorder to issue grants

(2) Where the emergency recorder has accepted from any person an application made in accordance with this Act and in the form set out in Form 1 of

Schedule I and the fee therefor, the mining recorder may issue to that person a grant in Form 3 of Schedule I.

Date of grant

(3) The grant mentioned in subsection (2) shall date from the time the emergency recorder accepted the application and fee.

Claim to be staked by applicant in person

33. No application shall be received for a claim that has not been staked by the applicant in person in the manner specified in this Act, except that if any person files with a mining recorder powers of attorney from not more than two persons, that person may stake subsequent to the filing not more than three claims in the name of each of those persons during any year the power of attorney is in force.

Limitation

35. Any person who records a claim in his own name or who has a claim recorded in his name by power of attorney does not have the right to locate or have located for him another claim within the valley or basin of the same creek or river within sixty days of the date on which the claim was located.

Tagging of claims

37. (1) As soon as reasonably possible after a grant of a claim, the holder of the claim shall affix or cause to be affixed securely to each of the legal posts of the claim a metal tag plainly marked or impressed with the number and letter or letters, if any, of the grant of the claim and, in the event of default, the claim may be cancelled by a mining recorder on the application of anyone who, in the opinion of the mining recorder, has been misled by the absence of the tags.

Supply of tags

(2) A mining recorder on application therefor shall supply the numbered tags mentioned in subsection (1) free of charge.

SURVEYS

Survey of claims

38. (1) The survey of claims made under instructions issued by direction of the Commissioner to a duly qualified Canada Lands Surveyor named by the Commissioner shall be accepted as defining absolutely the boundaries of the claims surveyed, if the returns of the survey are approved by the Commissioner or an official appointed by the Commissioner for that

purpose, and notice of the survey has been published in the *Yukon Gazette* for twelve successive issues thereof and remains unprotected during that period.

Notice and plan of survey

(2) The owner of a claim surveyed pursuant to subsection (1) shall, prior to the first appearance of the advertisement in the *Yukon Gazette*, cause to be posted in a conspicuous spot on the claim a notice of his intention to advertise the survey of the claim, and also a plan of the survey of the claim prepared by the surveyor.

Protest of survey

(3) If, within the time during which the notice referred to in this section is published, the survey is protested, the protest shall be heard and decided on by the Commissioner, and the costs of the hearing are in the discretion of the Commissioner, who may direct that the costs or any portion thereof shall be paid by any party to the proceedings.

Re-survey when decision varies boundaries

(4) If a decision is rendered varying the boundaries of the claim from those defined by the advertised survey, the owner of the claim may have the claim re-surveyed and new returns prepared embodying the changes involved by that decision, and the re-survey on being approved by the Commissioner, or the official appointed by the Commissioner for that purpose, may without advertisement be accepted by the Commissioner in lieu of the survey that has been protested.

Costs

(5) The expenses in connection with the survey and advertisement of claims shall be defrayed by the owners of the claims, but no fees will be charged by the Government for filing plans or other documents in connection therewith.

Appeal

(6) An appeal may be taken at any time within twenty days from the decision of the Commissioner under this section to the Supreme Court of the Territory.

Rules of procedure

(7) The procedure in all cases before the Commissioner under this section, and on appeal therefrom, shall be in accordance with rules prepared by the Commissioner.

Surveys

39. The Commissioner on behalf of the Government of Canada may authorize and direct the survey of the

base line of any creek or river to be made in accordance with such general instructions as may be issued by the Surveyor General, and the survey is, subject to the provisions of this Act with respect to advertisement and protest, a final determination of the location of the base line.

TITLE

Grant of located claim

40. (1) Any person having duly located a claim may obtain a grant thereof for one or five years by paying to a mining recorder, in advance, the fees prescribed in Schedule II.

Renewal of grant

(2) Any person referred to in subsection (1) is, on receiving a grant of a claim, entitled to hold the claim for the period mentioned therein, with the absolute right of renewal from year to year thereafter on payment of the renewal fee prescribed in Schedule II, if that person,

(a) during each year of the period, and during each year for which the renewal is granted, does, or causes to be done, work on the claim to the value of two hundred dollars, in accordance with a schedule to be prepared by the Commissioner; and

(b) files, within fourteen days after the date of the expiration of the period or renewal thereof, with the mining recorder or his agent, stating that the work has been done and setting out a detailed statement thereof.

Forfeiture of claim

41. (1) In the event that the work referred to in section 40 is not done as provided in that section, the title of the owner to the claim thereupon becomes absolutely forfeited, the claim is forthwith open for relocation without any declaration of cancellation or forfeiture on the part of the Crown and the claim shall not be reserved from entry and relocation during the fourteen days of grace mentioned in that section.

Existing rights

(2) This section does not affect any rights granted by the terms of any existing agreement with the Crown.

GROUPING

Owners of adjoining claims

51. (1) Adjoining claims, not exceeding ten in number, may be grouped together for the performance of work by the owner or owners thereof on filing with a mining recorder a notice of intention to group the claims and obtaining a grouping certificate in Form 7 of Schedule I.

Work on one or more claims in a group

(3) The holder or holders of a grouping certificate in Form 7 of Schedule I may perform on any one or more of the claims, in respect of which the grouping certificate was issued, all or any part of the work required to entitle them to a certificate of work for each claim so held by them, but if the work is not done the claims shall be deemed to be vacant and abandoned without any declaration of cancellation or forfeiture on the part of the Crown.

DISPUTES

Title

75. In case of any dispute respecting the location of a claim, the title to the claim shall depend on priority of the location, subject to any question respecting the validity of the record itself and to the claimant having complied with all the terms and conditions of this Act.

GENERAL

Misrepresentation, removal of legal posts, etc.

89. (1) If it is proved to the satisfaction of a mining recorder that any person has

(a) been guilty of misrepresentation in the statement sworn to by him in recording any claim or in any of the statements required under this Act to be made by him under oath, or

(b) removed, or disturbed with intent to remove, or defaced any legal post or stake or other mark placed under the provisions of this Act,

the mining recorder may, in his discretion, order that the person be debarred from the right to obtain a grant or renewal of a grant of a claim for any length of time that the mining recorder deems advisable.

Application of Act

91. (1) No person shall be granted or acquire a claim or any right therein, or carry on placer mining in the Territory, except in accordance with this Act.

Exception respecting prior rights

(2) This section does not affect any rights

(a) that have been acquired under the regulations for the disposal of mining locations in the Territory to be worked by the hydraulic or other mining process, approved by Order in Council dated December 3, 1898 and amendments thereto;

(b) that have been or may after August 1, 1906 be acquired under the regulations governing the issue of leases to dredge for minerals in the beds of rivers in the Territory, approved by Order in Council dated January 18, 1898, or under any amendments thereto;

(c) that may have been otherwise lawfully granted before August 1, 1906; or

(d) that may have been acquired under the authority of a lease to prospect.

Lease to prospect

92. (1) The Commissioner may grant a lease to prospect for the purposes of placer mining on lands that are the property of the Crown, or the mining rights of which are available for disposal under this Act, on receipt of an application accompanied by evidence satisfactory to the Commissioner of the applicant's financial ability and intention to incur the expenditure necessary to thoroughly prospect the area described in the application.

Location

(2) The location of the lands in respect of which a lease has been granted under subsection (1) shall be marked in the ground in the manner prescribed by this Act, and application for the lease shall be submitted in Form 6 of Schedule I.

Application for lease of abandoned ground

93. (1) If the lands described in an application for a lease under subsection 92(1) comprise abandoned ground, that is to say, if the whole or any portion of the creek or river on which the lands applied for are situated has previously been staked out and recorded under this Act, the regulations that preceded it or the hydraulic mining regulations approved by Order in Council dated December 3, 1898, but the grants of which have been permitted to lapse, or have been cancelled or forfeited, they shall not exceed five miles in length, and

(a) in the case of a creek, shall be measured along the base line in the manner prescribed in this Act, the side and end boundaries of the location of the lands being those defined in this Act; and

(b) in the case of a river, shall be on one side thereof only and shall extend back from the foot of the natural banks a distance of one thousand feet

measured from the base line, the end boundaries being lines drawn at each end of the location at right angles to the base line.

Size of locations

(2) Locations of lands other than on a creek or river shall not exceed one thousand feet in width and five miles in length measured along the line parallel to the base line of the creek or river and shall be made only on abandoned ground as defined in subsection (1).

Lessee may stake out claims

95. Prior to the termination of a lease granted under section 92, the lessee may, if he desires, personally stake out in the manner prescribed in this Act placer mining claims comprising the whole or any portion of the lands leased, and on furnishing the Commissioner with satisfactory evidence to show that he has incurred during the year for which the lease was issued the expenditure already provided for in the development of the leasehold, he may submit an application in Form 1 of Schedule I and obtain a grant in his own name for each of the claims so staked and applied for, in which case the unrecorded portion of the location immediately reverts to the Crown and becomes available for disposal under this Act.

Lease on creek or river not already prospected

96. (1) If a creek or river on which an applicant desires to acquire a lease to prospect has not already been prospected, that is to say, if mining claims have not previously been staked, recorded and abandoned along any part of the creek or river, the term of the lease that may be granted shall be for one year only, not subject to renewal, and the lands leased shall not exceed one mile in length, marked out and measured in the manner above prescribed, and subject to all the conditions above set out in so far as they can be made to apply.

Evidence of expenditure

(2) Prior to the termination of the year referred to in subsection (1), the lessee of the lands may, if he desires, stake out within the limits of the lands leased a claim not exceeding in size a discovery claim and, on furnishing evidence satisfactory to the Commissioner to show that he has incurred during the year for which the lease was issued the expenditure already provided for in the development of the leasehold, he may submit application and obtain a grant for the claim so staked and applied for, in which case the unrecorded portion of the location immediately reverts to the Crown and becomes available for disposal under this Act, and only

one discovery claim shall be allowed on the creek or river referred to in that subsection.

Order prohibiting entry

98. (1) Where, in the opinion of the Governor in Council, any land in the Territory may be required for a harbour, airfield, road, bridge or other public work or for a national park, historic site or town site, the settlement of aboriginal land claims or any other public purpose, the Governor in Council may, by order, prohibit entry on that land for the purpose of locating a claim or prospecting for gold or other precious minerals or stones except on such terms and conditions as the Governor in Council may prescribe.

Contents of order

- (2) An order under subsection (1) shall
- (a) indicate the public work or public purpose for which the lands may be required; and
 - (b) set out the terms and conditions, if any, on which entry for the purpose of locating a claim or prospecting for gold or other precious minerals or stones is permitted.

S.C. 1991, c. 2, s. 2.

SCHEDULE I

FORM 1

(Sections 26, 31 and 95)

**APPLICATION FOR GRANT FOR PLACER MINING AND
AFFIDAVIT OF APPLICANT**

No.

I (or we),, of hereby apply, under the *Yukon Placer Mining Act*, for a grant of a claim for placer mining as defined in that Act, in (*here describe locality*) and I (or we) make oath and say:

1. That to the best of my (or our) knowledge and belief the land is such as can be located under section 17 of the *Yukon Placer Mining Act*.

2. That I (or we) did on the day of, 19....., mark out on the ground, in accordance in every particular with the provisions of the *Yukon Placer Mining Act*, the claim for which I (or we) make this application, and in so doing I (or we) did not encroach on any other claim or mining location previously laid out by any other person.

3. That the length of the said claim, as nearly as I (or we) could measure, is feet, and that the description of this date hereto attached, signed by me (or us) sets out in detail, to the best of my (or our) knowledge and ability, its position.

4. That I (or we) staked out the claim by planting two legal posts numbered 1 and 2, respectively, and that No. 1 is discovery.

5. That I (or we) make this application in good faith to acquire the claim for the sole purpose of mining to be prosecuted by myself (or us) or by myself (or ourselves) and associates or by my (or our) assigns.

Sworn before me at, in the Yukon Territory, this day of, 19.....

A commissioner for taking affidavits in the Yukon Territory (*or as the case may be*).

The above excerpts of the *Yukon Placer Mining Act* are from chapter Y-3 of the *Revised Statutes of Canada, 1985* as amended by:

- R.S.C. 1985, c. 27 (1st Supp.), s. 203; RA 20.06.85; CIF 04.12.85 (SI/85-211).
- S.C. 1991, c. 2, ss. 1, 2; RA 17.01.91; CIF 13.02.90 (s. 6).
- S.C. 1991, c. 50, s. 49; RA 17.12.91; CIF 15.09.92 (SI/92-151).
- S.C. 1994, c. 43, ss. 95 to 97; RA 15.12.94; CIF 14.02.95 (SI/95-19).

Yukon Quartz Mining Act

An Act respecting quartz mining in the Yukon Territory

Excerpts from
Chapter Y-4, R.S.C. 1985
As amended

SHORT TITLE*Short title*

1. This Act may be cited as the *Yukon Quartz Mining Act*.

INTERPRETATION*Definitions*

2. (1) In this Act,

"adjoining claims"

"adjoining claims" means those mineral claims that come into contact one with the other at some point on the boundary lines or that share a common boundary;

"Commissioner"

"Commissioner" means the Commissioner of the Territory or such person as for the time being is invested with and has the powers of the Commissioner of the Territory;

"Department"

"Department" means the Department of Indian Affairs and Northern Development;

"full claim"

"full claim" means any mineral claim of the full size;

"legal post"

"legal post" means a stake or post of any kind of sound timber of sufficient length so that when firmly planted in the ground in an upright position, not less than four feet of such post is above ground, and the post must be of such diameter that when squared or faced for eighteen inches from the top end, each face of the squared or faced portion is not less than four inches in width across the face for the full eighteen inches or, if a tree of suitable size is found in position, it may be made into a post by cutting the tree off not less than four feet from the ground and squaring and facing the upper eighteen inches, each face of the portion so squared or faced to be not less than four inches in width, and, whether a post is planted or a stump of a tree is made into a post, a mound of stones or earth shall be erected around the base of the post, which mound of earth or stones shall be not less than

three feet in diameter on the ground and not less than eighteen inches high, cone-shaped and well constructed;

"location line"

"location line" means a straight line opened or indicated throughout between No. 1 and No. 2 location posts of a mineral claim and joining them:

"mill-site"

"mill-site" means a plot of ground leased under section 122 for the purpose of erecting thereon any machinery or other works for transporting, crushing, reducing or sampling ores, or for the transmission of power for working mines:

"mine"

"mine" means any land in which any vein, lode or rock in place is mined for gold or other minerals, precious or base;

"mineral"

"mineral" means all deposits of gold, silver, platinum, iridium or any of the platinum group of metals, mercury, lead, copper, iron, tin, zinc, nickel, aluminum, antimony, arsenic, barium, bismuth, boron, bromide, cadmium, chromium, cobalt, iodine, magnesium, molybdenum, manganese, phosphorus, plumbago, potassium, sodium, strontium, sulphur or any combination of those elements with themselves or with any other elements, quartz, metallic oxides and silicates, and the ores of radium, tungsten, titanium and zirconium, asbestos, emery, mica, mineral pigments, corundum and diamonds, but does not include limestone, marble, clay, gypsum or any building stone when mined for building purposes, earth, ash, marl, gravel, sand or any element that may, in the opinion of the Minister, form a portion of the agricultural surface of the land;

"mineral claim", "claim" or "location"

"mineral claim", "claim" or "location" means a plot of ground staked out and acquired under the provisions of this Act or under the claim regulations or orders in council in force prior to July 19, 1924;

"mining district"

"mining district" means the mining districts into which the Territory is divided under the authority of the *Yukon Placer Mining Act*;

"mining property"

"mining property" includes every mineral claim, ditch, mill-site or water right used for mining purposes and all other things belonging to a mine or used in the working thereof;

"Minister"

"Minister" means the Minister of Indian Affairs and Northern Development;

"record", "register" and "registration"

"record", "register" and "registration" have the same meaning, and mean an entry in an official book kept for that purpose;

"representation" or "assessment"

"representation" or "assessment" means the work to be done or the payment to be made each year to entitle the owner of a mineral claim to a certificate of work;

"Territory"

"Territory" means the Yukon Territory;

Application

(2) This Act is applicable only to minerals on territorial lands situated within the Territory.

Application to mineral claims or locations

(3) All the provisions of this Act apply, and shall be deemed to have applied on and from July 19, 1924, to all mineral claims or locations, whether staked out and acquired prior or subsequent to that date.

DUTIES OF MINING RECORDER

Books open to public

5. All books of record and documents filed in the office of a mining recorder shall, during office hours, be open to public inspection free of charge.

RIGHT TO ACQUIRE MINERAL CLAIMS

Entry, location and mining

12. Any individual eighteen years of age or over may enter, locate, prospect and mine for minerals on

- (a) any vacant territorial lands in the Territory; and
- (b) any lands in the Territory in respect of which the right to enter, prospect and mine for minerals is reserved to the Crown.

Savings

13. No mineral claim recorded before June 7, 1984 shall be held invalid by reason only that

(a) during any period of twelve months more than seven mineral claims were located by the same person, whether personally, as attorney for another or by an attorney, within a distance of ten miles from any other mineral claim located by him, whether personally, as attorney for another or by an attorney, during that period; or

(b) a power of attorney authorizing a person to enter, locate, prospect or mine was not filed with a mining recorder before the entering, locating, prospecting or mining was undertaken.

Exceptions

14. (1) There shall be excepted from the provisions of section 12 any land occupied by any building, any land falling within the curtilage of any dwelling-house and any land valuable for water-power purposes, or for the time being actually under cultivation, unless with the written consent of the owner, lessee or locatee or of the person in whom the legal estate therein is vested, any land on which any church or cemetery is situated, any land lawfully occupied for mining purposes and Indian reserves, national parks and defence, quarantine or other like reservations made by the Government of Canada, except as provided by section 15.

Vacant lands

(2) Where two or more mineral claims are contiguous and comprise a group recorded in the name of one person and it was the manifest intention of the locator of those claims, as shown by the sketches accompanying the applications for the claims, to include as part of the claims all the lands lying within the outside limits of that group and extensions of the outside limits, the vacant lands within the limits and extensions, but outside the limits of any claim, shall be open for staking only by the recorded owner of that group, but any such land may on survey be included in one or more of those claims by a Canada Lands Surveyor pursuant to this Act.

Lands not so included open for staking

(3) Any land that is available only to the recorded owner of mineral claims under subsection (2) and is not included in any claim by the Canada Lands Surveyor is, on approval of the survey of those claims by the Surveyor General, available for staking by any person under this Act.

Exception

14.1 (1) Section 12 does not apply to lands entry on which for the purpose of locating a claim or prospecting or mining for minerals is prohibited by an

order under subsection (2), except on the terms and conditions, if any, set out in the order.

Order prohibiting entry

(2) Where, in the opinion of the Governor in Council, any land in the Territory may be required for a harbour, airfield, road, bridge or other public work or for a national park, historic site or town site, the settlement of aboriginal land claims or any other public purpose, the Governor in Council may, by order, prohibit entry on that land for the purpose of locating a claim or prospecting or mining for minerals except on such terms and conditions as the Governor in Council may prescribe.

Contents of order

- (3) An order under subsection (2) shall
- (a) indicate the public work or public purpose for which the lands may be required; and
 - (b) set out the terms and conditions, if any, on which entry for the purpose of locating a claim or prospecting or mining for minerals is permitted.

added, S.C. 1991, c. 2, s. 3.

Security

15. (1) No person shall enter on for mining purposes or shall mine on lands owned or lawfully occupied by another person until adequate security has been given, to the satisfaction of a mining recorder, for any loss or damage that may be thereby caused.

S.C. 1994, c. 26, s. 79;

S.C. 1994, c. 43, s. 98.

Compensation

15.1 Persons locating, prospecting, entering on for mining purposes or mining on lands owned or lawfully occupied by another person shall make full compensation to the owner or occupant of the lands for any loss or damage so caused, which compensation, in case of dispute, shall be determined by the Yukon Surface Rights Board in accordance with the *Yukon Surface Rights Board Act*.

added, S.C. 1994, c. 43, s. 98.

SIZE OF MINERAL CLAIMS AND NUMBER THAT MAY BE ACQUIRED

Side of claims

16. (1) Any person who desires to locate a mineral claim shall, subject to the provisions of this Act with respect to land that may be located for that purpose, enter on the land and locate a rectangular plot of

ground not exceeding one thousand five hundred feet in length by one thousand five hundred feet in breadth.

Priority of right

(2) Priority of location shall be deemed to convey priority of rights to mineral claims located, but no locator of a claim has any prior rights unless and until he has located his claim in accordance with this Act.

Subject to recording, etc.

(3) Priority of right is in all cases subject to the mineral claim being recorded within the times specified in this Act and subsequently maintained in good standing.

Angles

(4) All angles of a mineral claim shall be right angles, except in cases where a boundary line of a previously located claim is adopted as common to both locations.

Horizontal measurement

(5) In defining the size of a mineral claim, it shall be measured horizontally, irrespective of the inequalities of the surface of the ground.

Fractional mineral claims

17. Any person of the prescribed age who desires to locate a fractional mineral claim shall, subject to the provisions of this Act with respect to land that may be located for that purpose, enter on the land and locate any plot of ground lying between and bounded on opposite sides by previously located mineral claims and measuring less than one thousand five hundred feet in length by one thousand five hundred feet in breadth as a fractional mineral claim, which claim need not be rectangular in form and the angles need not be right angles, and the lines of the previously located mineral claims, whether surveyed or not, between which the fractional mineral claim is located, may be adopted as the boundaries of the fractional mineral claim.

Iron and mica

18. (1) The Minister may grant a location for the mining of iron and mica, not exceeding one hundred and sixty acres in area, which location shall be bounded by due north and south and east and west lines, and its breadth and length shall be equal.

Exception respecting other minerals

(2) Should any person making any application purporting to be for the purpose of mining iron or mica obtain possession of a valuable mineral deposit other than iron or mica, the right of that person to that deposit shall be restricted to the area prescribed in this

Act for other minerals, and the rest of the location, in so far as the valuable deposit is concerned, shall thereupon remain in the Crown for such disposition as the Minister may direct.

Surface not included

19. The grant issued for a location described in section 18 shall include the right to the iron and mica only and shall not include the surface rights.

Location and survey of other claims

20. All the requirements of this Act respecting the location and survey of other mineral claims govern those locations as far as they can be made to apply, and the amount to be expended each year in representation work, or to be paid in lieu thereof, shall be double the amounts prescribed in sections 54 and 57.

HOW A MINERAL CLAIM SHALL BE STAKED

Posts

21. (1) Every mineral claim shall be marked on the ground by two legal posts firmly planted in the ground, one at each extremity of the location line, which shall be known as location post No. 1 and location post No. 2.

Location line

(2) The location line may have any bearing or direction, but must be a straight line measured horizontally between the location posts.

Distance

(3) The distance between post No. 1 and post No. 2 shall not exceed one thousand five hundred feet, but it may be less.

Inscriptions

22. The inscriptions to be placed on legal posts shall be and remain clearly and legibly marked by knife, marking iron, crayon or pencil.

Marking on location post No. 1

23. On location post No. 1, on the side of that post facing in the direction of location post No. 2, shall be marked, beginning near the top of the portion faced and extending downward, the following:

- (a) No. 1;
- (b) the name given to the mineral claim;

(c) the letter indicating the direction of location post No. 2 — "N" for north or northerly, "S" for south or southerly, "W" for west or westerly and "E" for east or easterly;

(d) the number of feet lying to the right and the number of feet lying to the left of the location line — "R" for right and "L" for left;

(e) the month and date of the month on which the location was made;

(f) the year; and

(g) the name of the person locating the mineral claim.

Marking on location post No. 2

24. On location post No. 2, on the side of that post facing in the direction of location post No. 1, shall be marked, beginning near the upper end of the portion faced and extending downward, the following:

(a) No. 2;

(b) the name given to the mineral claim;

(c) the month and date of the month on which the location was made;

(d) the year; and

(e) the name of the person locating the mineral claim.

Stand of locator

25. The locator of a mineral claim standing at location post No. 1 and facing in the direction of post No. 2 shall have the right and left of the location line to his right and left respectively.

Marking of fractional mineral claim

26. The markings on the location posts of a fractional mineral claim shall be the same as those on a claim of the full size, with the addition of the letter "F" for fractional immediately below the name given to the claim, and below that the length of the location line in feet.

Witness post to be marked "W.P."

27. Where it is impossible, owing to the presence of water or other insurmountable obstacle, to set post No. 2 in its proper position at one end of the location line, the locator of a mineral claim may set up a witness post on the location line as near as possible to where post No. 2 should have been placed, and on that witness post he shall place, in addition to that already prescribed in this Act to be placed on post No. 2, the letters "W.P." and the distance in feet and the direction

of the point at which post No. 2 would have been placed had it been possible to do so.

When witness post considered to be location post No. 2

28. (1) If a locator marks the location of his mineral claim by means of a witness post and it is subsequently ascertained to the satisfaction of the Commissioner that such action was not necessary and that it was possible at the time to set post No. 2 in its proper place on the location line, the witness post shall be considered and dealt with as location post No. 2 of the claim and shall be regarded as the termination of the location line.

No witness post at No. 1

(2) Location post No. 1 shall not under any circumstances be marked with a witness post.

Marking by holder when mineral claim located

29. When a mineral claim has been located, the locator of the claim shall immediately mark the location line between post No. 1 and post No. 2 so that it can be distinctly seen throughout its entire length, and in a timbered locality, the marking shall be done by blazing trees and cutting underbrush, and in a locality where there is neither timber nor underbrush, the locator shall set legal posts or erect monuments of earth or rock not less than eighteen inches high and three feet in diameter at the base.

Sides of mineral claim located

30. (1) The sides of a mineral claim located as of the full size shall be parallel to the location line of that claim, but subject to any claims previously located, and the ends of a mineral claim shall be at right angles to the location line, but subject to interference with claims already located.

Location line as one of the sides

(2) The location line of a mineral claim may form one of the sides of the claim, or a portion of the location may lie on either side of that line, but the number of feet lying to the right of the location line and the number of feet lying to the left thereof shall not exceed in all one thousand five hundred feet.

Examples

31. The following is an example of inscriptions to be placed on posts:

| Inscription on location post No. 1 | Inscription on location post No. 2 | Inscription on Witness Post |
|------------------------------------|------------------------------------|-----------------------------|
| No. 1 | No. 2 | W.P. |
| "Apex" | "Apex" | "Apex" |
| E. | Aug. 10, | Aug. 10, |
| 800 R. | 1916 | 1916 |
| 700 L. | B.J. Box | B.J. Box |
| Aug. 10, | | 200 feet |
| 1916 | | N. |
| B.J. Box | | |

Particulars of inscriptions

32. (1) Particulars of all inscriptions put on post No. 1 and post No. 2 shall be furnished by the locator of a mineral claim to a mining recorder in writing at the time the claim is recorded and shall form a part of the record of the claim.

Plan to be submitted

(2) The locator of a mineral claim shall submit with his application for recording the claim a plan in duplicate showing as clearly as possible the position of the location applied for in its relation to the prominent topographical features of the district and to the adjoining claims or any other known point and the position of the stakes by which the location is marked on the ground.

REMOVING OR DEFACING POSTS

Removing or defacing posts

34. (1) It shall not be lawful to move post No. 1, and post No. 2 may be moved only by a Canada Lands Surveyor, when it is found on making a survey that the distance between post No. 1 and post No. 2 exceeds one thousand five hundred feet, in order to place post No. 2 at a distance of one thousand five hundred feet from post No. 1 on the line of location of a mineral claim.

Distance less than 1,500 feet

(2) When the distance between post No. 1 and post No. 2 is less than one thousand five hundred feet, the mineral claim shall not extend beyond post No. 2 as originally placed.

Unlawful moving or defacing

35. It is not lawful for any person to move any location post or to deface or to alter in any manner the notices on the post except as provided in this Act.

Punishment

36. Any person who removes or disturbs with intent to remove any legal post, stake, picket or other mark

placed under this Act or defaces or alters in any manner the notices on any of the legal posts placed thereon under this Act is on summary conviction liable to a fine not exceeding one hundred dollars and costs, and in default of payment of the fine and costs to imprisonment for any period not exceeding six months.

Moving of posts of fractional mineral claim with permission

37. When a fractional mineral claim has been located between previously located and unsurveyed mineral claims, and when any such previously located mineral claims are surveyed, if any of the posts of the fractional mineral claim are found to be on the previously located mineral claims, the location of the fractional mineral claim is not invalid by reason of the location posts of the fractional mineral claim being on the previously located mineral claims, and the owner of the fractional mineral claim may, by obtaining the permission of the mining recorder for the district in which the claim is situated, move the posts of the fractional mineral claim and place them on the surveyed line of the adjoining previously located mineral claims.

Privilege of Canada Lands Surveyors

38. Nothing in this Act shall be construed as preventing Canada Lands Surveyors in their operations from taking up posts or other boundary marks when necessary.

RECORDING

Delays for recording mineral claims

39. (1) Every person who locates a mineral claim shall record it with the mining recorder for the district in which the claim is situated within fifteen days after the location thereof if it is located within ten miles of the office of the mining recorder.

Additional time

(2) One additional day shall be allowed for every additional ten miles or fraction thereof for recording a claim under subsection (1).

When claim is deemed abandoned

(5) A mineral claim that has not been recorded within the prescribed period shall be deemed to have been abandoned and forfeited without any declaration of cancellation or abandonment on the part of the Crown.

Emergency recorder

40. (1) Where a claim is more than one hundred miles from the office of a mining recorder and situated where

other claims are being located, the locators thereof, not less than five in number, are authorized to meet and appoint one of their number an emergency recorder, who may receive applications for claims located in accordance with this Act.

Record of application

(2) The emergency recorder appointed under subsection (1) shall note on each application the day on which each application was received and the amount of fees paid in respect thereof.

To notify the mining recorder

41. (1) The emergency recorder shall, at the earliest possible date after his appointment, notify the mining recorder for the district in which the claims are situated of his appointment, and shall deliver to that mining recorder the applications that he has received for mineral claims and the fees that he has collected for recording those claims.

Duty of recorder

(2) The mining recorder shall grant to each person from whom the emergency recorder has accepted an application and the fee prescribed by this Act an entry for his claim in Form 3 of Schedule 1.

Date of entry

(3) Each entry granted under subsection (2) shall date from the day the emergency recorder accepted the application and fee.

Accompanying affidavit

42. (1) No mineral claim shall be recorded unless the application therefor is accompanied by an affidavit or solemn declaration made by the applicant in Form 1 of Schedule 1, or, if it is a fractional mineral claim, in Form 2 of that Schedule.

Filing of application

(2) Each application for a mineral claim shall be filed in duplicate with a mining recorder.

Diligence on part of locator

43. (1) Failure on the part of the locator of a mineral claim to comply in every respect with the provisions of sections 39 to 42 shall not be deemed to invalidate the location, if on the facts it appears to the satisfaction of a mining recorder that the locator has staked out the location as nearly as possible in the manner prescribed, that there has been on the part of the locator an honest attempt to comply with all the provisions of this Act and that the non-observance of any of the formalities referred to in sections 39 to 42 is not of a character

calculated to mislead other persons who desire to locate claims in the vicinity.

(c) obtain from the mining recorder a certificate in Form 5 of Schedule I that the work has been done.

Tagging of claims

46. (1) As soon as reasonably possible after the recording of a mineral claim, the holder of the claim shall affix or cause to be affixed securely to each of the legal posts of the claim a metal tag plainly marked or impressed with the recorded number and letter or letters, if any, of the claim and, in the event of default, a mining recorder may, after a hearing, cancel the entry for the claim on the application of any person who, in the opinion of the mining recorder, has been misled by the absence of the tags, and notice of the hearing together with a copy of the application shall be served on the recorded owner of the claim in the manner directed by the mining recorder at least thirty days before the date fixed for the hearing.

Misrepresentation or removing, or destroying posts or marks

56. (1) Where it is proved to the satisfaction of a mining recorder that any person has

- (a) been guilty of misrepresentation in any of the statements required under this Act to be made by him under oath, or
- (b) removed or destroyed with intent to remove, or defaced, any legal post or stake or other mark placed under this Act,

the mining recorder may, in his discretion, order that the person be debarred from the right to obtain entry for, or a certificate of work in connection with, any mineral claim for any length of time the mining recorder deems advisable.

Rights of holder of claim

48. The holder of a mineral claim is entitled to all minerals to which this Act applies that may lie within the boundaries of his claim continued vertically downwards.

When claim expires

58. (1) If the amount of work on a mineral claim or payment in lieu thereof prescribed by this Act is not done or made during the year, the claim lapses on the expiration of the year and is forthwith open for location under this Act without any declaration of cancellation on the part of the Crown.

GROUPING

Number of adjoining claims that may be grouped

53. (1) Adjoining claims, not exceeding sixteen in number, may be grouped together for the performance of work by the owner or owners thereof on filing with a mining recorder at any time before the recording of the work a notice of intention to group the claims and obtaining a certificate in Form 6 of Schedule I.

DISPUTES

Priority of location to govern disputes

63. In the case of any dispute respecting the location of a mineral claim, the title to the claim shall be recognized according to the priority of the location, subject to any question respecting the validity of the record itself and to the locator having complied with all the terms and conditions of this Act.

REPRESENTATION

Claim good for one year and yearly renewal

54. (1) Any person having duly located and recorded a mineral claim is entitled to hold it for the period of one year after the date of recording the claim, and thence from year to year without the necessity for the further recording of it, and during that year and each succeeding year the locator of the claim shall

- (a) do, or cause to be done, work on the claim itself to the value of one hundred dollars;
- (b) within fourteen days after the expiration of the year, satisfy a mining recorder that the work has been done, by an affidavit in Form 4 of Schedule I, and setting out a detailed statement of the work; and

TITLE

Certificate of improvements

68. (1) The lawful holder of a mineral claim is entitled to receive from a mining recorder a certificate of improvements, in Form 7 of Schedule I, in respect of the claim, unless proceedings by a person claiming an adverse right under section 73 have been taken, whenever he has, to the satisfaction of the mining recorder,

- (a) done or caused to be done work on the claim in developing a mine to the value of five hundred dollars, exclusive of the cost of all houses, buildings and other like improvements, or made payment in lieu of work as provided in section 57;

the value of the work done, as assessed by the mining recorder, and the amount paid and accepted in lieu of work shall together be equal to at least five hundred dollars, except that, in the case of a fractional mineral claim, the work to be done or the payment to be made in lieu thereof shall be that specified in section 61, and, for the purposes of this section, work done on a claim by a predecessor or predecessors in title shall be deemed to have been done by the person who received a transfer of the claim, and the cost of the survey, not to exceed one hundred dollars, may be counted as work done on the claim if it has been accepted in lieu of representation work;

(c) had the claim surveyed at his own expense in accordance with instructions from the Surveyor General, by an authorized Canada Lands Surveyor, and had the survey thereof duly approved;

(d) posted on a conspicuous part of the land embraced in the survey a copy of the plan of the claim signed and certified as accurate under oath by the surveyor, and a legible notice in writing in Form 8 of Schedule 1 of his intention to apply for a certificate of improvements, and also posted a similar notice in the office of the mining recorder, which notice shall contain

- (i) the name of the claim,
- (ii) the name of the lawful holder of the claim,
- (iii) the intention of the lawful holder of the claim to apply for a certificate of improvements at the end of sixty days for the purposes of obtaining a lease, and
- (iv) the date of the notice;

(e) inserted a copy of the notice in a Canadian newspaper published in and circulating in the district in which the claim is situated, and approved by the mining recorder, for at least sixty days prior to the application, which insertion can be made at any time after the posting of the notice on the claim or, if no newspaper is published in the district, the notice shall appear in the Canadian newspaper published nearest to the district;

(f) filed with the mining recorder a copy of the surveyor's original plan of the claim, signed and certified as accurate under oath by the surveyor, immediately after posting the notice on the claim of his intention to apply for a certificate of improvements;

ADVERSE RIGHT

Procedure in case of adverse rights

73. (1) Where any person claims an adverse right of any kind, either to possession of the mineral claim referred to in the application for a certificate of improvements, or any part thereof, or to the minerals contained therein, he shall

(a) within sixty days after the first publication in a newspaper, as provided by this Act, of the notice referred to in paragraph 68(1)(e) or in section 85, but not later, unless that time is extended by special order of the court on cause being shown, commence legal action to determine the question of the right of possession or otherwise enforce his claim;

(b) file a copy of the writ, information, bill of complaint or other initiatory proceeding in the action with the mining recorder for the district or mining division in which the claim is situated within twenty days from the commencement of the action; and

(c) prosecute the action with reasonable diligence to final judgment.

Adverse claim affecting only portion of ground

74. (1) Where an adverse claim affects only a portion of the ground for which application is made for a certificate of improvements, the applicant may relinquish the portion covered the adverse claim and still be entitled to a certificate of improvements for the undisputed remainder of his claim on complying with the requirements of this Act.

Judgment

(2) When judgment in a case described in subsection (1) is rendered by the court, a memorandum of the judgment shall be entered in the record book by the mining recorder, and if by any judgment the original boundaries of any claim are changed, a plan made by a Canada Lands Surveyor, and signed by the judge by whom the judgment has been given, shall be filed with the mining recorder, who shall forward it to the Department.

WHAT ENTRY OR LEASE CONVEYS

To what holder of mineral claim entitled

76. (1) The holder of a mineral claim, by entry or by lease, located on vacant territorial lands is entitled to

(a) all minerals found in veins or lodes, whether the minerals are found separate or in combination with each other in, on or under the lands included in the entry or lease, together with the right to

enter on and use and occupy the surface of the claim, or such portion thereof and to such extent as the Minister may consider necessary, for the efficient and miner-like operation of the mines and minerals contained in the claim, but for no other purpose; and

(b) the right to cut free of dues such of the timber on the claim or such portion thereof as may be necessary for the working of the claim, but not for sale or traffic, except where the timber has been granted or disposed of prior to the date of entry.

Lease of surface rights

77. (1) The Minister may, on application, grant to the holder of a mineral claim, in good standing, located on vacant territorial lands, and acquired by entry or by lease, a lease of the whole or any portion of the available surface rights of the mineral claim at a rental of one dollar an acre per annum, payable yearly in advance.

Term of lease

(2) The term of a lease of the surface rights of a mineral claim shall not exceed the term of the record grant or lease issued for the minerals under this Act or former mining regulations, and shall be appurtenant to that grant.

Termination of lease

(3) The Minister may at any time, by giving the lessee three months notice in writing of his intention, terminate a lease of the surface rights of a mineral claim, without compensation to the lessee for the termination or for any buildings or other improvements that the lessee may have placed on the location, but the lessee may be given the privilege of removing from the location any buildings and improvements that may have been placed thereon by him.

Consent of Minister

(4) A lessee shall not assign, transfer or sublet the rights described in a lease of the surface rights of a mineral claim, or any portion thereof, without the consent in writing of the Minister being first obtained.

Effect when prospecting rights reserved

79. A lease of a mineral claim located on lands the surface rights of which have been disposed of but the right whereon to enter, prospect and mine for minerals has been reserved to the Crown conveys to the lessee the minerals found in veins or lodes, whether the minerals are found separately or in combination with each other, that may be in, but conveys no right of entry on the surface.

When right to mine gold and silver reserved

81. A lease of a mineral claim located on lands the surface rights of which have been disposed of but the right whereon to enter and mine gold and silver has been reserved to the Crown conveys to the lessee the right to the gold and silver found in veins or lodes that may be in, on or under the land described in the lease, but conveys no right of entry on the surface.

Water for mining purposes

82. A lease of a mineral claim issued under this Act reserves to the Crown such right or rights-of-way and of entry as may be required under any law or regulation in force on or after July 19, 1924 in connection with the construction, maintenance and use of works for the conveyance of water for mining operations.

SURVEYS

Survey after notice from Minister

84. (1) The recorded owner of a mineral claim shall have a survey thereof made at his own expense by a duly qualified Canada Lands Surveyor under instructions from the Surveyor General within one year from the date on which notification by the Minister to do so may be sent to him.

Notice

(2) The notification under subsection (1) shall not be given until the expiration of at least one year from the date on which the claim was recorded.

If survey not made

(3) If the survey required under subsection (1) is not made, and if the returns of the survey are not received and approved by the Surveyor General within one year from the date of notification, the entry granted for the mineral claim is subject to immediate cancellation in the discretion of the Minister.

Survey made without notice

(4) The owner of a mineral claim may have a survey made at any time after obtaining record without any notification having been sent to him to do so.

Cost and notice of survey

85. (1) The cost of a survey of a mineral claim, made in accordance with paragraph 68(1)(c), may be accepted in lieu of representation work on the claim for the year in which the survey is made, and the survey so made shall be accepted as definitely establishing the boundaries of the claim, if notice of the survey in Form 11 of Schedule I is immediately inserted, for a period of not less than sixty days, in a newspaper published in or

circulating in the district in which the claim is situated, and approved by the mining recorder, and if the owner of the claim prior to the first appearance of that advertisement causes to be posted in a conspicuous spot on the claim, and in the office of the mining recorder for the district, a notice in the same form of his intention to advertise the survey of the claim, and also a copy of the plan of the survey prepared and certified correct, under oath, by a Canada Lands Surveyor.

including the fraction does not exceed in area sixty acres.

Survey defining boundaries

(2) The survey shall be accepted as defining absolutely the boundaries of the claim surveyed, if it remains unprotested during the period of publication, and if it has been duly approved by the Surveyor General.

Procedure

(3) If within the time specified the survey is protested, the protest shall be heard and decided on by procedure similar to that provided for in section 73.

Duties of surveyor

86. (1) The surveyor of a mineral claim shall accurately define and mark the boundaries of the claim on the ground in full compliance with the instructions issued to him, shall, in addition to other inscriptions placed on each of the posts marking the angles or corners of the claim, inscribe thereon clearly and legibly, by means of a cutting instrument, the name of the claim so surveyed and shall, on completion of the survey, forward to the Surveyor General at Ottawa the original field notes and plan signed and certified as accurate under oath.

Evidence

(2) After a certificate of improvements has issued in respect of any claim surveyed under subsection (1), in the absence of evidence to the contrary, proof of its location on the ground may be given by any person who has seen and who can describe the position of the posts purporting to be marked as described in that subsection.

When Canada Lands Surveyor may include fraction

87. Where either post No. 1 or post No. 2 of a mineral claim is on the boundary line of a previously located claim, and the boundary line is not at right angles to that location line, the Canada Lands Surveyor when making the survey may include the fraction so created within the claim that is being surveyed, if that fraction is available and open to disposal and the claim

What fractional mineral claim to contain

88. A Canada Lands Surveyor when surveying a fractional mineral claim may survey that claim so that it contains as nearly as possible all the unoccupied ground lying between the previously located mineral claims as described in the affidavit and sketch furnished by the locator then the claim was recorded, if the area of the claim as surveyed is less than sixty acres.

Penalty

89. Where a Canada Lands Surveyor pursuant to section 87 or 88 includes in a mineral claim more than fifty-one and sixty-five one-hundredths acres before the survey is approved by the Surveyor General, the recorded owner of the claim shall pay to a mining recorder as a penalty the sum of five dollars for each acre or fraction thereof included in the claim in excess of fifty-one and sixty-five one-hundredths acres.

Definite fixing of claim

90. A surveyor shall, in the discretion of the Surveyor General, with respect to the survey of a mineral claim, connect the survey of the claim with some known point in a previous survey, or with any other known point or boundary, so that the position of the claim may be definitely fixed on the plans of the Department.

Duty of surveyor and certificate

91. It is the duty of a surveyor, before proceeding with the survey of a mineral claim, to examine the application made for the claim and the plan that accompanied that application, and before completing the survey to ascertain by careful examination of the ground, or by all other reasonable means in his power, whether or not any other subsisting claim conflicts with the claim he is surveying, and he shall furnish with his returns of survey a certificate, duly signed by him, in the following form:

I hereby certify that I have carefully examined the ground included in mineral claim surveyed by me, and have otherwise made all reasonable investigations in my power to ascertain if there was any other existing claim conflicting therewith, and I certify that have found no trace or indication and have no knowledge or information of any such claim except as follows:
(if none, so state; if any, give particulars).

When posting and publication sufficient

92. If the survey of a mineral claim is made and advertised in the manner specified in this Act before the recorded owner of the claim has sufficiently complied with the regulations to admit of his applying for a certificate of improvements, the posting and publication of notice of the survey of the claim in the manner indicated shall be accepted as satisfaction of the posting and advertising requirements of section 68, but before a certificate of improvements is issued in connection with such a claim all the other requirements of section 68 shall be fully complied with.

ARBITRATION

Permission for referral to Yukon Surface Rights Board

106. (1) Where the surface rights of a mineral claim have been patented, or have been disposed of by the Crown under any Act or regulation that contemplates the earning of patent for the surface rights, and the holder or lessee of the mineral claim cannot make an arrangement with the owner or occupant of the surface rights or the agent of the owner or occupant for entry on the location, or for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical operation of the rights acquired under the record or lease, the holder or lessee may, if the mineral rights in the land subject to access and the right to use and occupy such portion of the land as may be necessary for the effectual working of the minerals have been reserved to the Crown in the original grant of the surface rights, apply to the Minister for permission to refer the matter in dispute to the Yukon Surface Rights Board established by the *Yukon Surface Rights Board Act*.

Referral to Board

(2) On receiving written permission from the Minister, the holder or lessee may refer the matter in dispute to the Yukon Surface Rights Board.

For greater certainty

(3) For greater certainty, subsections (1) and (2) apply in respect of settlement land as defined in section 2 of the *Yukon Surface Rights Board Act* and Tetlit Gwich'in Yukon land as if that land had been patented, except where the mineral claim is a new mineral right as defined in section 2 of that Act.

Definition of "Tetlit Gwich'in Yukon land"

(4) In this section, "Tetlit Gwich'in Yukon land" means land as described in Annex B, as amended from time to time, to Appendix C of the Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, that was approved, given

effect and declared valid by the *Gwich'in Land Claim Settlement Act*.

S.C. 1994, c. 43, s. 101.

MILL-SITES

Lease for mill-site

122. The Minister may, in his discretion, grant a lease of a tract of available, unoccupied and unreserved Crown land, not known to contain mineral of commercial value and not exceeding five acres in area, as a mill-site, but lands valuable for water-power purposes shall not be open to lease for that purpose except by authority of the Governor in Council.

Marking, surveying and form

123. (1) A mill-site shall be marked on the ground and surveyed in the same manner as a mineral claim, and shall be as nearly as possible in the form of a square, the boundaries being due north and south and due east and west lines.

MISCELLANEOUS

Rights of authorities saved

132. Nothing contained in this Act shall be construed as limiting the right of the proper authorities to lay out, from time to time, public roads across, through, along or under any ditch, mill-site, water right or mineral claim.

SCHEDULE I

FORM 1
(Section 42)

APPLICATION FOR A FULL CLAIM

I,, of, in the Mining District, make oath and say:

1. On the day of, 19....., I located the mineral claim situated (*here describe the position of the claim as nearly as possible, giving the name or names of any mineral claim or claims it may join*).

2. I have placed location posts No. 1 and No. 2 of the legal dimensions on the said claim with the inscription on each post prescribed by the *Yukon Quartz Mining Act*.

3. I have inscribed on location post No. 1 the following words:.....

4. I have inscribed on location post No. 2 the following words:.....

(If a witness post has been used, the particulars as to that post should be fully set out.)

5. I have marked the line between post No. 1 and post No. 2 as required by section 29 of the *Yukon Quartz Mining Act*.

6. To the best of my knowledge and belief the ground comprised within the boundaries of the said claim is unoccupied and unrecorded by any other person as a mineral claim and it is not occupied by any building or any land falling the curtilage of any dwelling-house, any land under cultivation or any land reserved from entry under the *Yukon Quartz Mining Act*.

7. The said claim has not heretofore been staked out by any one in my interest.

8. I attach hereto a plan of the location as required by section 32 of the *Yukon Quartz Mining Act*.

Sworn and subscribed to at, this day of, 19.....

FORM 2 (Section 42)

APPLICATION FOR FRACTIONAL MINERAL CLAIM

I,, of, in the Mining District, make oath and say:

1. On the day of, 19....., I located the fractional mineral claim situated

2. This is a fractional mineral claim bounded on the north by on the south by on the east by and on the west by and is more particularly described on the sketch plan on the back of (or attached to as the case may be) this declaration.

3. I have placed posts of the legal dimensions (*here enumerate each of the posts placed on the ground in locating the claim*) with the prescribed inscription on each post.

4. I have inscribed on location post No. 1 the following words:.....

5. I have inscribed on location post No. 2 the following words:.....

6. The length of the location line is approximately feet.

7. I have marked the line between post No. 1 and post No. 2 as required by section 29 of the *Yukon Quartz Mining Act*.

8. To the best of my knowledge and belief the ground comprised within the boundaries of the said fractional mineral claim is unoccupied and unrecorded by any other person as a mineral claim and it is not occupied by any building or any land falling the curtilage of any dwelling-house, any land under cultivation or any Indian reserve or other reservation made in the mining regulations.

9. The said claim has not heretofore been staked out by any one in my interest.

Sworn and subscribed to at, this day of, 19.....

FORM 8 (Section 68)

NOTICE

Mineral Claim

Situated in the Mining District

Where located

Take notice that I,, intend, sixty days from the date hereof, to apply to the mining recorder for a certificate of improvements, for the purpose of obtaining a lease of the above claim.

And further take notice that action, under section 73 of the *Yukon Quartz Mining Act*, must be commenced before the issuance of the certificate of improvements.

Dated this..... day of, 19.....

FORM 11 (Section 85)

SURVEY NOTICE

Mineral Claim

Situated in the Mining District

Where located

Take notice that a survey has been made of the above mineral claim under instructions from the Surveyor General, and that at the termination of sixty days from the date of this notice the said survey shall be accepted as defining absolutely the boundaries of the said claim, unless in the meantime it is protested, as provided in section 73 of the *Yukon Quartz Mining Act*.

Dated this day of, 19.....

The above excerpts of the *Yukon Quartz Mining Act* are from chapter Y-4 of the *Revised Statutes of Canada*, 1985 as amended by:

- S.C. 1991, c. 2, s. 3; RA 17.01.91; CIF 13.02.90 (s. 6).
- S.C. 1994, c. 26, ss. 78, 79; RA 23.06.94.
- S.C. 1994, c. 43, ss. 98 to 101; RA 15.12.94; CIF 14.02.95 (SI/95-19).

Yukon Waters Act

An Act respecting water resources in the Yukon Territory

Excerpts from
Chapter 40, S.C. 1992
As amended

SHORT TITLE

Short Title

1. This Act may be cited as the *Yukon Waters Act*.

INTERPRETATION

Definitions

2. In this Act,

"appurtenant undertaking"

"appurtenant undertaking" means the work described in a licence;

"Board"

"Board" means the Yukon Territory Water Board established by section 10;

"licence"

"licence" means a type A or type B licence permitting the use of waters or the deposit of waste, or both, issued pursuant to section 14;

"licensee"

"licensee" means the holder of a licence;

"Minister"

"Minister" means

(a) except as provided in paragraph (b), the Minister of Indian Affairs and Northern Development, or

(b) in respect of any matter related to the pipeline referred to in the *Northern Pipeline Act*, such member of the Queen's Privy Council for Canada as is designated as the Minister for the purposes of that Act;

"territorial lands"

"territorial lands" means lands in the Yukon Territory that are vested in Her Majesty in right of Canada or of which the Government of Canada has power to dispose;

"waters"

"waters" means any inland water, whether in a liquid or frozen state, on or below the surface of the land in the Yukon Territory.

GENERAL

Her Majesty

Binding on Her Majesty

3. This Act is binding on Her Majesty in right of Canada, except that Her Majesty in right of Canada is not required to pay any fee prescribed by regulations made under subparagraph 33(1)(k)(i) or (ii).

Waters vested in Her Majesty

4. Subject to any rights, powers or privileges granted pursuant to the *Dominion Water Power Act* or preserved under that Act, the property in and the right to the use and flow of all waters are vested in Her Majesty in right of Canada.

Application of Other Acts

Other Acts, etc., to be complied with

5. Nothing in this Act, the regulations or a licence authorizes a person to contravene or fail to comply with any other Act or any regulation or order made thereunder, except as provided in that other Act, regulation or order.

Delegation to Yukon Minister

Delegation to Yukon Minister

6. The Minister may, in writing, delegate to the person occupying the recognized position of Minister of the Yukon Territory responsible for water resources any of the Minister's functions under section 10, subsections 13(1) and 14(6), section 20, paragraph 21(3)(c), subsection 23(4), paragraph 24(b) and section 31, either generally or as otherwise provided in the instrument of delegation.

OBJECTS AND POWERS OF BOARD

Objects

12. The objects of the Board are to provide for the conservation, development and utilization of waters in a manner that will provide the optimum benefit therefrom for all Canadians and for the residents of the Yukon Territory in particular.

RIGHTS AND DUTIES OF LICENSEES AND OTHERS

Permission of Minister to expropriate

31. (1) An applicant for a licence, or a licensee, may apply to the Board for permission from the Minister to expropriate, in accordance with the *Expropriation Act*, land or an interest in land in the Yukon Territory, and where the Minister, on the recommendation of the Board, is satisfied that

- (a) the lands or interest are reasonably required by the applicant or licensee for use in relation to the appurtenant undertaking, and
- (b) the applicant or licensee has made reasonable efforts to acquire the lands or interest and has been unable to do so and it is in the public interest that such permission be granted to the applicant or licensee,

the Minister may, in writing, grant the permission.

Notice to appropriate minister

(2) Where the Minister grants permission under subsection (1), the applicant or licensee shall so advise the appropriate minister in relation to Part I of the *Expropriation Act*.

Expropriation Act

(3) For the purposes of the *Expropriation Act*, land or an interest in land in respect of which the Minister has granted permission under subsection (1) is deemed to be an interest in land that, in the opinion of the appropriate minister in relation to Part I of the *Expropriation Act*, is required for a public work or other public purpose, and a reference to the Crown in that Act shall be construed as a reference to the applicant or licensee.

Copy of document evidencing permission to be deposited

(4) A copy of the document evidencing the permission granted by the Minister pursuant to subsection (1), certified as such by the chairperson or vice-chairperson of the Board, shall be deposited with the registrar or registrars of titles for the land registration district or districts in which the lands affected by the permission are situated.

Approval of Governor in Council to expropriate

(5.1) Where land required by an applicant or licensee is settlement land as defined in section 2 of the *Yukon Surface Rights Board Act* or Tetlit Gwich'in Yukon land, the permission of the Minister granted pursuant to subsection (1) is subject to the approval of the Governor in Council and, for the purposes of applying subsections (2) and (3) in respect of such land, the date on which the approval of the Governor in Council is obtained shall be substituted for the date on which permission is granted by the Minister pursuant to subsection (1) and a copy of the document evidencing the approval of the Governor in Council shall be deposited in accordance with subsection (4).

Definition of "Tetlit Gwich'in Yukon land"

(5.3) In this section, "Tetlit Gwich'in Yukon land" means land as described in Annex B, as amended from time to time, to Appendix C of the Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, that was approved, given effect and declared valid by the *Gwich'in Land Claim Settlement Act*.

Exceptions

(6) This section does not apply in respect of

- (a) territorial lands; or
- (b) lands belonging to any railway company that are used or required by the company for the purposes of its railway.

S.C. 1994, c. 43, s. 102;

S.C. 1996, c. 10, s. 274.

REGULATIONS AND ORDERS

Reservation of lands from disposition

34. (1) The Governor in Council may, by order, reserve from disposition under any enactment relating to the disposition of territorial lands, for a specified period or otherwise, all or any interests in any territorial lands under the management, charge and direction of the Minister where the interests are, in the opinion of the Governor in Council, required

- (a) for the protection of any waters; or
- (b) in connection with any undertaking the development or operation of which is, in the opinion of the Governor in Council, in the public interest and that would require the use of those interests in lands and of waters adjacent to those lands.

Coming into Force

Yukon Waters Act
Chapter 40, S.C. 1992; RA 23.06.92

CIF 15.06.93 (SI/93-88).

The above excerpts of the *Yukon Waters Act* are from chapter 40 of the *Statutes of Canada, 1992*, as amended by:

- S.C. 1994, c. 43, s. 102; RA 15.12.94; CIF 14.02.95 (SI/95-19).
- S.C. 1996, c. 10, s. 274; RA 29.05.96; CIF 01.07.96 (SI/96-53).

SPECIFIC STATUTES OF CANADA

Introduction

Contents

In general, this Chapter contains summaries of statutes of Canada which have not been, and will never be, consolidated into a revised statute because their subject matter is too specific. Some statutes presented in this chapter have been consolidated as a revised statute in the past, but because of their specific nature did not appear in subsequent consolidations. Statutes in this chapter are still in force and may affect surveys of Canada Lands.

This chapter is divided into three parts. The first part is a collection of miscellaneous statutes which may affect the survey of Canada Lands. The second part contains a collection of statutes which pertain to provincial and territorial boundaries. The third part contains a schedule listing the statutes that affect various regions of Canada. The schedule is added for convenience of reference.

Abbreviations

The following abbreviations are used in this Part of the Manual:

| <u>Abbreviation</u> | <u>Definition</u> |
|---------------------|--------------------------------|
| c. | chapter |
| CIF | came in force |
| ex. | except |
| NIF | not in force |
| R.S.C. | Revised Statutes of Canada |
| RA | Royal Assent |
| s. | section |
| S.C. | <i>Statutes of Canada</i> |
| Sch. | Schedule |
| SI | Statutory Instrument |
| SOR | Statutory Order and Regulation |
| ss. | sections |

Organization of Acts

The Acts are set out in alphabetical order in each part of this Chapter. Each abstract includes:

- (a) references to the title of the Act and the source of the Act;
- (b) a brief summary; and
- (c) references to the Acts amending the original enactment.

A 3 centimetre line separator indicates the end of each summary. References that appear immediately below the line separator, if any, refer to the enactments that amend the original Act.

In force dates

In this Chapter, references to an enactment contain the date of coming into force similarly to Chapter A1. For example, a reference such as

- (a) ■ S.C. 1991, c. 10, s. 19; RA 01.02.91.

means that chapter 10 of the *Statutes of Canada 1991* received Royal Assent on 1 February, 1991. Since no CIF date appears in the notation, section 19 of that Act came into force on Assent; and

- (b) ■ S.C. 1990, c. 7; RA 29.03.90; CIF 01.06.90
ex. ss. 13, 20, 25, 27 (SI/90-66);
ss. 13, 20 CIF 01.01.90 (SI/90-174);
s.25 CIF 12.12.88 (s. 52);
s.27 CIF 29.03.90.

means that chapter 7 of the *Statutes of Canada 1990* received Royal Assent on 29 March, 1990. By virtue of Statutory Instrument 90-66, it came into force on 1 June 1990 except for sections 13, 20, 25 and 27. Sections 13 and 20 came into force on 1 January 1990 by virtue of Statutory Instrument 90-174. Section 25 came into

force on 12 December 1988 by virtue of section 52 and section 27 came into force on assent.

How current are the references?

The references in this Chapter have been updated to the applicable date indicated in the Table of Consolidation preceding Part A of this Manual.

Copies of Acts

The statutes contained in this Chapter have been published in :

(a) the "Assented to" Acts Service, Part III of the *Canada Gazette*;

(b) the annual editions of the *Statutes of Canada*; and

(c) various editions of the *Revised Statutes of Canada*.

The above mentioned publications are available in most public libraries. They may also be purchased from the Canada Communication Group, Publishing, Public Works and Government Services Canada or from bookstores that sell Canadian Government publications. Copies of individual statutes may be obtained from the Canada Lands Surveys Records, Legal Surveys Division, Ottawa, Ontario.

PART I — MISCELLANEOUS

Alberta Natural Resources Act

S.C. 1930, c. 3; RA 30 May 1930.

Provides that the interest of the Crown in all Crown lands, mines, minerals, and royalties on them derived from the Province of Alberta, belong to the Province. Contains provisions for Hudson's Bay Company interests in lands, school lands, water, Indian Reserves, National Parks, soldier settlement lands, Crown grants of land, historic sites, bird sanctuaries, and the transfer of federal records of lands to the Province.

S.C. 1931, c. 15; S.C. 1938, c. 36;

S.C. 1940-41, c. 22; S.C. 1945, c. 10;

S.C. 1951, c. 37; S.C. 1960-61, c. 62.

Authority of Certain Regulations and Orders in Council

S.C. 1928, c. 44; RA 11 June 1928.

S.C. 1932, c. 12; RA 04 April 1932.

The first Act (S.C. 1928, c. 44) declares that orders in council or regulations made by the Governor in Council under authority of:

- 1) *the Railway Belt Water Act*, S.C. 1912, c. 47;
- 2) *the Dominion Forest Reserves and Parks Act*, S.C. 1911, c. 10;
- 3) *the Dominion Lands Act*, S.C. 1908, c. 20;
- 4) *the Rocky Mountains Park Act*, R.S.C. 1906, c. 60; and
- 5) *the Yukon Act*, R.S.C. 1906, c. 63;

have the same force and effect as if they had been approved by both Houses of Parliament as required by the Acts.

The other Act (S.C. 1932, c. 12) declares that orders in council or regulations made by the Governor in Council under authority of:

- 1) *the Dominion Forest Reserves and Parks Act*, R.S.C. 1927, c. 78; and
- 2) *the Dominion Lands Act*, R.S.C. 1927, c. 113,

have the same force and effect as if they had been approved by both Houses of Parliament as required by the Acts.

British Columbia Indian Cut-off Lands Settlement Act

S.C. 1984, c. 2; RA 23 February 1984.

Provides for the settlement of claims by Indian bands in British Columbia relating to certain lands cut off from their reserves. Authorizes Indian bands to enter into agreements with Canada and British Columbia to resolve and extinguish claims in respect of cut-off lands.

British Columbia Indian Lands Settlement Act

S.C. 1920, c. 51; RA 01 July 1920.

Authorizes the Governor in Council to implement an agreement between Canada and British Columbia, based on the McKenna-McBride Royal Commission, for the settlement of all differences respecting Indian lands and Indian affairs in the Province. Authorizes the Governor in Council to order reductions or cutoffs from reserves without surrenders by the Indians.

British Columbia Indian Reserves Mineral Resources Act

S.C. 1943-44, c. 19; RA 24 July 1943.

Confirms an agreement which provides that the Province of British Columbia should have charge of the development of all minerals in Indian Reserves in British Columbia.

Canada-Newfoundland Atlantic Accord Implementation Act

S.C. 1987, c. 3; RA 25 March 1987;

CIF 04.04.87 (SI/87-88) except Division VIII of Part II and ss. 07 and 208; Division VIII of Part II, CIF 20.05.88 (SI/88-102); ss. 207 and 208, CIF 23.01.96 (SI/96-20).

Implements an agreement between Canada and the Province of Newfoundland and Labrador concerning offshore petroleum resource management and revenue sharing; provides for regulations to define offshore areas; provides a definition of frontier lands; creates the Canada-Newfoundland Offshore Petroleum Board; provides general rules relating to the issuance of interests in the offshore, including exploration, significant discoveries, commercial discoveries, and production licences; and provides general rules relating to the transfer, assignment and registration of interests. Also provides for regulations authorizing or requiring the survey, division, and subdivision of the

offshore consistent with the *Canada Lands Surveys Act*.

S.C. 1988, c. 28; S.C. 1990, c. 41;
S.C. 1991, c. 46; S.C. 1991, c. 49;
S.C. 1991, c. 50; S.C. 1992, c. 1;
S.C. 1992, c. 35; S.C. 1993, c. 47;
S.C. 1994, c. 26; S.C. 1994, c. 41.

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act

S.C. 1988, c. 28; RA 21 July 1988.

CIF 22.12.89 (SI/90-9) except Division VIII of Part II; Division VIII of Part II, CIF 01.10.90 (SI/90-152).

Implements an agreement between Canada and the Province of Nova Scotia concerning offshore petroleum resource management and revenue sharing; defines offshore areas (including the Bay of Fundy and Sable Island) in 3 Schedules; provides for regulations to define offshore areas; creates the Canada-Nova Scotia Offshore Petroleum Board; provides general rules relating to the issuance of interests in the offshore, including exploration, significant discoveries, commercial discoveries and production licences; and provides general rules relating to the transfer, assignment and registration of interests. Also provides for regulations authorizing or requiring the survey, division and subdivision of the offshore consistent with the *Canada Lands Surveys Act*.

S.C. 1990, c. 41; S.C. 1991, c. 46;
S.C. 1991, c. 49; S.C. 1991, c. 50;
S.C. 1992, c. 1; S.C. 1992, c. 35;
S.C. 1993, c. 47; S.C. 1994, c. 26;
S.C. 1994, c. 41.

Caughnawaga Indian Reserve Act

S.C. 1934, c. 29; RA 28 June 1934.

Declares order in council P.C. 1906-1419 (12 July 1906) to be valid and provides for the reserve to be divided into not more than 6 sections.

Condominium Ordinance Validation Act

S.C. 1985, c. 46; RA 29 October 1985.

Validates the *Condominium Ordinance* of the Yukon Territory (c. 12, Revised Ordinances of the Yukon Territory, 1971), and the *Condominium Ordinance* of the Northwest Territories (c. 10, Revised Ordinances of the Northwest Territories, 1974) as if the ordinances, as amended, were not in conflict with the *Land Titles Act*.

Conveyance of Certain Lands to British Columbia

S.C. 1889, c. 7; RA 16 April 1889.

Authorized the Governor in Council to transfer to the Government of British Columbia a maximum of 45,037 acres out of the lands known as "The Canadian Pacific Railway Belt" so that the provincial government could validate certain titles and interests created in the lands previously.

Cree-Naskapi (of Quebec) Act

S.C. 1984, c. 18; RA 14 June 1984.

CIF 03.07.84 (SI/84-129) except ss. 36 and 157 to 172; ss. 36 and 157 to 172, CIF 01.12.84 (SI/84-129).

Provides for an orderly and efficient system of Cree and Naskapi local government pursuant to obligations undertaken in section 9 of the James Bay and Northern Quebec Agreement and section 7 of the Northeastern Quebec Agreement. Provides for the administration, management and control of Category 1A and Category 1A-N land by the Cree and Naskapi bands respectively; provides for residence access rights, and other rights to Cree-Naskapi lands (including mineral rights and expropriation); provides for a land registry system; and amends the *Canada Lands Surveys Act* by including Cree-Naskapi lands in the definition of Canada Lands.

Fort Nelson Indian Reserve Minerals Revenue Sharing Act

S.C. 1980-81-82-83, c. 38; RA 17 July 1980.

CIF 18.09.80 (SI/80-172).

Approves an agreement which provides that the ownership, administration, control and power of disposition of coal, petroleum and natural gas underlying the Reserve are vested in the Province of British Columbia; that all claims and rights thereto are subject to the laws of the Province; and that the net profit and gross revenue from the disposition of coal, petroleum and natural gas shall be shared equally between Canada for the use and benefit of the Band and the Province. In this Act, Reserve means the lands conveyed by the Province of British Columbia to Canada by British Columbia Order in Council No. 2995 (28 November, 1961) and any lands which may be conveyed in the future. The Act also contains a surrender of all minerals including coal, petroleum and gas to Canada.

Gwich'in Land Claim Settlement Act

S.C. 1992, c. 53; RA 17 December 1992.

CIF 22.12.92 (SI/93-01)

Approves, gives effect to and declares valid the Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and the

Gwich'in, signed on April 22, 1992. Vests title to lands in the Gwich'in Tribal Council. Authorizes the Governor in Council to make such orders and regulations as are necessary to carry out the agreement. A consequential amendment to the *Land Titles Act* provides for issuing a certificate of title without a survey for lands set out in Schedules I, II and III of Appendix F to the Agreement.

Indian Lands Agreement (1986) Act

S.C. 1988, c. 39; RA 28 July.

CIF 01.07.90 (SI/90-91).

Authorizes an agreement between Canada and the Province of Ontario respecting Indian lands in Ontario. The agreement authorizes Ontario, Canada and any band or group of bands to enter into a specific agreement in any of 10 matters such as the disposition of lands or natural resources, minerals and any matter dealt with in a 1924 Agreement (see *Ontario Indian Reserve Lands Settlement Act*, S.C. 1924, c. 48).

Indian Act (Soldier Settlement)

R.S.C. 1927, c. 98, ss. 187-190; CIF 1 February 1928.

Sections 187 to 190, being Part III of the *Indian Act*, R.S.C. 1927, c. 98, apply the *Soldier Settlement Act* to Indians and authorize the Deputy Superintendent General of Indian Affairs to acquire lands within or outside of an Indian Reserve for a settler who is an Indian, and to set apart for a settler a portion of the common lands of the band, without the consent of the council of the band.

S.C. 1951, c. 29.

James Bay and Northern Quebec Native Claims Settlement Act

S.C. 1976-77, c. 32; RA 14 July 1977.

CIF 31.10.77 (SI/77-223).

Approves certain agreements between the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association, the Government of Quebec, la Société d'énergie de la Baie James, la Société de développement de la Baie James, la Commission hydro-électrique du Québec and the Government of Canada. The agreements provide for the grant to, or the setting aside for, Crees and Inuit of certain lands in Quebec; provide for other rights; establish regional and local governments; and provide for the surrender by the Cree, the Inuit of Quebec, and the Inuit of Port Burwell, of all their native rights to certain lands in Quebec.

Lac Seul Conservation Act, 1928

S.C. 1928, c. 32; RA 11 June 1928.

Authorizes an agreement between Canada, the Province of Ontario and the Province of Manitoba and repeals the *Lake of the Woods Regulation Act*, S.C. 1921, c. 38. The agreement provides for the construction of a dam to regulate the water levels of Lac Seul to facilitate the development of power on the Winnipeg River. Control of the water levels affects the natural boundaries of a number of Indian Reserves.

Lake of the Woods Control Board Act, 1921

S.C. 1921, c. 10; RA 3 May 1921.

Creates a Board to control the water levels of the Winnipeg River, English River, Lake of the Woods, Lac Seul, and other waters of the watershed of the Winnipeg River in Ontario and Manitoba. Control of the water levels of these watercourses affects the natural boundaries of a number of Indian Reserves.

S.C. 1958, c. 20.

Manitoba Natural Resources Act

S.C. 1930, c. 29; RA 30 May 1930.

Provides that the interest of the Crown in all Crown lands, mines, minerals, and royalties on them derived from the Province of Manitoba, belong to the Province. Contains provisions for Hudson's Bay Company interests in lands, school lands, water, Indian Reserves, National Parks, soldier settlement lands, Crown grants of land, historic sites, bird sanctuaries and the transfer of federal records of lands to the Province. Also contains an agreement between Canada, Ontario and Manitoba regarding control of the upper waters of the Winnipeg River (English River, Lake of the Woods, Lac Seul).

S.C. 1938, c. 36; S.C. 1948, c. 60;

S.C. 1951, c. 53; S.C. 1960-61, c. 62.

Mingan Archipelago National Park Act

S.C. 1984, c. 34; RA 29 June 1984.

Sets aside lands in Quebec (described in the schedule to the Act) as a reserve for a National Park of Canada pending settlement of a native land claim.

S.C. 1992, c. 1.

National Battlefields at Quebec Act

S.C. 1907-08, c. 57; RA 17 March 1908.

Provides for a Commission which may purchase, acquire and hold lands or immoveable property in the City of Quebec where great historic battles took place.

The lands purchased by the Commission are identified in the following federal Acts respecting the National Battlefields at Quebec:

S.C. 1907-08, c. 58; S.C. 1911, c. 5;
S.C. 1925, c. 47; S.C. 1948, c. 62.

S.C. 1910, c. 41; S.C. 1914, c. 46;
S.C. 1928, c. 36; S.C. 1938, c. 23;
S.C. 1948, c. 62; S.C. 1953-54, c. 17;
S.C. 1984, c. 31; S.C. 1996, c. 7.

National Parks Act, Amendment

S.C. 1974, c. 11; RA 7 May 1974.

Amended the *National Parks Act*, R.S.C. 1970, c. N-13. Section 10 as amended authorizes the Governor in Council to set aside, by proclamation amending Schedule 1 to the *National Parks Act*, certain lands in provinces as National Parks of Canada (in municipalities of Val Marie and Old Post, Saskatchewan; in district of Thunder Bay, Ontario; in county of Bruce, Ontario; and in districts of St. Barbe and Humber West, Newfoundland). Section 10 also authorizes the establishment of a National Marine Park in the county of Bruce, Ontario. Section 11 authorizes the Governor in Council to set aside, as National Parks, the lands in the Yukon Territory and Northwest Territories described in Parts 1, 2 and 3 of Schedule 5 of the Act (Kluane, Yukon; South Nahanni, NWT; Cumberland Peninsula, Baffin Island, NWT).

S.C. 1988, c. 48.

Natural Resources Transfer (School Lands) Amendment Act, 1961

S.C. 1960-61, c. 62; RA 29 September 1961.

Amends agreements respecting the administration and control of natural resources in Manitoba, Saskatchewan and Alberta. Vests the provinces with all control of the School Lands Fund and the school lands specified in section 37 of the *Dominion Lands Act*, R.S.C. 1927, c. 113.

New Brunswick Indian Reserves Agreement Act

S.C. 1959, c. 47; RA 18 July 1959.

Confirms an agreement between Canada and the Province of New Brunswick respecting Indian Reserves. The agreement confirms all grants made by Canada of surrendered Indian Reserves, and transfers to Canada all rights and interests of the Province in reserve lands, except minerals and lands lying under public highways. The 18 reserves subject to this agreement are identified in an appendix to the agreement.

Nova Scotia Indian Reserves Agreement Act

S.C. 1959, c. 50; RA 18 July 1959.

Confirms an agreement between Canada and the Province of Nova Scotia respecting Indian Reserves. The agreement confirms all grants made by Canada of surrendered Indian Reserves, and transfers to Canada all rights and interests of the Province in reserve lands, except minerals and lands lying under public highways. The 24 reserves subject to this agreement are identified in an appendix to the agreement.

Nunavut Land Claims Agreement Act

S.C. 1993, c. 29; RA 10 June 1993.

CIF 09.07.93 (SI/93-99).

Ratifies, gives effect to and declares valid the land claims agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada, signed on May 25, 1993. Authorizes the Governor in Council to make such orders and regulations as are necessary to carry out the agreement.

Ontario Indian Reserve Lands Settlement Act

S.C. 1924, c. 48; RA 19 July 1924.

Enacts an agreement which provides that Canada should have full power and authority to sell, lease and convey title in fee simple or for any less estate to any lands forming part of any Reserve surrendered by the Indians in Ontario. It also provides for lands sold prior to the agreement and for mineral rights.

Railway Belt Act

R.S.C. 1927, c. 116; CIF 1 February 1928.

Defines the term "Railway Belt" and the western boundary of the Railway Belt in British Columbia.

S.C. 1950, c. 50.

Railway Belt and Peace River Block Act

S.C. 1930, c. 37; RA 30 May 1930.

Provides that all interests of Canada in the lands granted by the Province of British Columbia to Canada be re-transferred by Canada to the Province. Contains provisions for lands alienated by Canada, ordnance and admiralty lands, Indian Reserves, National Parks, soldiers' settlement land, historic sites, bird sanctuaries, Crown grants of land, and the transfer of federal records of lands to the Province.

Railway Belt Water Act

R.S.C. 1927, c. 211; C.I.F. 1 February 1928.

First introduced as R.S. 1912, c. 47; (1 April 1912). Provides that the property in, and the right to the use of, all the water in any watercourse within the Railway Belt and the Peace River Block be vested in the Crown and be administered under and in accordance with the Water Acts of the Province of British Columbia. Provides that the Act is not to be construed as conferring any interest in any lands belonging to the Crown in the right of Canada.

S.C. 1928, c. 6; S.C. 1928, c. 44.

Sahtu Dene and Metis Land Claim Settlement Act

S.C. 1994, c. 27; RA 23 June 1994.

Approves, gives effect to and declares valid the Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and the Sahtu Dene and Metis signed on September 6, 1993. Vests title to land in one or more designated Sahtu organizations. Authorizes the Governor in Council to make such orders and regulations as are necessary to carry out the agreement.

St. Peter's Reserve Act

S.C. 1916, c. 24; RA 18 May 1916.

Provides that patents of lands issued by the Crown, and sales of land by the Crown, of lands in St. Peter's Reserve in Manitoba, are confirmed in certain cases, such as where the lands were unsold and were held by the Indian patentees on 1 June 1915.

St. Regis Islands Act

S.C. 1926-27, c. 37; RA 31 March 1927.

Provides the Superintendent General of Indian Affairs with full power to deal with certain islands in the St. Lawrence River which belong to the St. Regis Indian Band and which are not held under any recognized interest by individual members of the band, or which were held under leases which have been declared by the courts to be null and void.

Saskatchewan Natural Resources Act

S.C. 1930, c. 41; RA 30 May 1930.

Provides that the interests of the Crown in all Crown lands, mines, minerals, and royalties on them derived from the Province of Saskatchewan, belong to the Province. Contains provisions for Hudson's Bay Company interests in lands, school lands, water, Indian Reserves, national parks, soldier settlement lands,

historic sites, bird sanctuaries and the transfer of federal records of lands to the Province.

S.C. 1931, c. 51; S.C. 1938, c. 36;
S.C. 1947, c. 45; S.C. 1948, c. 69;
S.C. 1951, c. 60; S.C. 1960-61, c. 62.

Saskatchewan Treaty Land Entitlement Act

S.C. 1993, c. 11; RA 30 March 1993.

Confirms an agreement between Canada and Saskatchewan to vary the Natural Resources Transfer Agreement of 1930, to remove the obligations under sections 10 and 11 for setting aside land and paying claims related to minerals. Confirms sections 6.04, 6.05 and 6.11 of the Saskatchewan Treaty Land Entitlement Framework Agreement, entered into on September 22, 1992 to fulfil Canada's outstanding treaty land entitlement obligations, and of the Nekaneet Treaty Land Entitlement Settlement Agreement, entered into on September 23, 1992. Provides for the Act to apply to other bands at a later date.

Sechelt Indian Band Self-Government Act

S.C. 1986, c. 27; RA 17 June 1986.

C.I.F. 9.10.86, ex. ss. 17 to 20, (SI/86-193); ss. 17 to 20 C.I.F. 17.03.88 (SI/88-48).

Provides for self-government for the Sechelt Indian Band of British Columbia on Sechelt Lands. Transfers the title to all lands which were reserves (within the meaning of the *Indian Act*) of the Sechelt Band to the Sechelt Band; amends the *Canada Lands Surveys Act* to include Sechelt lands within the definition of Canada Lands. Companion legislation is the *Sechelt Indian Government District Enabling Act* (S.B.C. 1987, c. 16). Pursuant to order in council P.C. 1987-1466 (23 July 1987) the legislation was in force as of 24 July 1987.

Settlement of Questions Between Canada and Ontario Respecting Indian Lands

S.C. 1891, c. 5; RA 10 July 1891.

Authorized the Governor in Council to enter into the proposed agreement contained in the Schedule to the Act. The agreement concerned Indians subject to the North-West Angle Treaty No. 3. The agreement provided that the rights to hunt and to fish did not continue on any tracts of land required by the Government of Ontario and that the concurrence of the province of Ontario was required in the selection of Indian Reserves (whether selected prior to the agreement or not). The agreement also provided that for all Indian Reserves confirmed or selected in the future, the waters within an Indian Reserve, including the land covered with water lying between the

projecting headlands of any lake not wholly surrounded by the Indian Reserve, would form part of the reserve including islands wholly within the headlands. Finally, the agreement provided that any future treaties required the concurrence of the Government of Ontario.

Soldier Settlement Act

R.S.C. 1927, c. 188; C.I.F. 1 February 1928.

Creates a Soldier Settlement Board which may request the Minister of Veterans Affairs to reserve or transfer to it any Dominion Lands under the Minister's administration; may purchase by agreement, acquire by consent, or acquire by compulsory purchase, any agricultural lands which it may deem necessary for the purposes of the Act. The Board may also acquire by purchase any Indian lands which have been validly released or surrendered. The Board may sell, or dispose of or convey lands to a person who at any time during the war has been engaged on active service in a military force. The Minister may issue, free, a soldier grant for not more than one hundred and sixty acres of lands reserved pursuant to this Act.

Contains parts:

- I) Constitution of the Board, which also describes what may be done with lands;
- II) Sales and Advances to Settlers which describes the procedures related to selling or disposing of lands;
- III) Compulsory Purchase of Lands which describes the procedures for acquiring lands by compulsory purchase; and
- IV) Miscellaneous Provisions.

One section of this Act authorizes the Board to employ any person duly licensed to act as a surveyor for any province, or any surveyor or engineer, to make any survey, or establish any boundary and furnish the plans and descriptions of any lands acquired or to be acquired by the Board. Boundaries may be permanently established by the engineer or surveyor by stone or iron monuments. The surveys, boundaries, plans and descriptions have the same effect as if the work had been done by a land surveyor duly licensed for the province in which the lands are situated. The boundaries are true and unalterable if due notice has been provided to adjoining proprietors. Finally, the

Board is authorized to have boundaries established without the formalities of the Act.

S.C. 1928, c. 48; S.C. 1930, c. 42;
S.C. 1931, c. 53; S.C. 1932, c. 53;
S.C. 1932-33, c. 49; S.C. 1934, c. 41;
S.C. 1935, c. 66; S.C. 1936, c. 10;
S.C. 1938, c. 14; S.C. 1946, c. 33;
S.C. 1950, c. 50.

Songhees Indian Reserve Act

S.C. 1911, c. 24; RA 19 May 1911.

Provides for the sale of the Songhees Indian Reserve in British Columbia to British Columbia on condition that it be surrendered; that the Indians receive certain money; and that land at Esquimalt be conveyed to Canada.

Split Lake Cree First Nation Flooded Land Act

S.C. 1994, c. 42; RA 15 December, 1994.

Settles some matters relating to money, claims and arbitration as the result of an agreement, signed on June 24, 1992 between Canada, Manitoba, the Manitoba Hydro-Electric Board and the Split Lake Cree First Nation, relating to the implementation of the Flood Agreement signed on December 16, 1977.

Transfer of Certain Lands to Ontario and Quebec

S.C. 1943-44, c.30; RA 24 July 1943.

Confirms the transfer, by order in council contained in the Schedule to the Act, of lands belonging to the Crown in right of Canada adjacent, contiguous or comprising any part of the bed of the Ottawa River required for developing water power at sites known as Cave and Fourneaux, Des Joachims, Chenaux, Rocher Fendu and Carillon, to Ontario and Quebec. Lands within the province of Ontario were transferred to Ontario. Lands within the province of Quebec were transferred to Quebec. The Ottawa River forms the boundary between Quebec and Ontario.

Transfer of Certain Public Property to the Provincial Governments

S.C. 1891, c. 7; RA 30 Sept. 1891.

Authorized the Governor in Council to transfer to Ontario, Quebec, Nova Scotia, New Brunswick, British Columbia and Prince Edward Island all the interests of the Crown in right of Canada in the foreshore and bed of any stream, river, lake, harbour, bay, open sea or other territorial waters of Canada within the limits of such Provinces (including all gold and silver), subject to the exceptions, limitations and conditions mentioned in

the Schedule to the Act. A major exception was any portion of the foreshore or bed of Canadian waters in front of and adjoining any lands held by the Crown in right of Canada including Indian, Ordnance or other Dominion Lands.

Waterton Glacier International Peace Park Act

S.C. 1932, c. 55; RA 26 May 1932.

Provides that upon proclamation by the Governor in Council, Waterton Lakes National Park is deemed to be a part of the Waterton Glacier International Peace Park. Also provides that the Canadian section of the park continues to be a National Park.

Western Arctic (Inuvialuit) Claims Settlement Act

S.C. 1984, c. 24; RA 28 June 1984.

Approves an agreement between the Committee for Original Peoples Entitlement (representing the Inuvialuit of the Inuvialuit Settlement Region, Northwest Territories) and Canada. The agreement provides for the grant to, or the setting aside for, the Inuvialuit of certain lands in the Inuvialuit Settlement Region; provides for other rights; and provides for the extinguishment of all native claims and rights of the Inuvialuit in and to the territory subject to the agreement.

S.C. 1988, c. 16.

Yukon First Nations Land Claims Settlement Act

S.C. 1994, c. 34; RA 7 July 1994.

CIF 14.02.95 (SI/95-19) ex. ss. 20(1), (2) & 4; ss. 20(1), (2) & 4 NIF.

Approves, gives effect to and declares valid the final agreements, signed on May 29, 1993, between Her Majesty the Queen in right of Canada, the Government of the Yukon Territory and the following first nations:

Champagne and Aishihik First Nations
First Nation of Nacho Nyak Dun
Teslin Tlingit Council
Vuntut Gwitchin First Nation.

Provides for Governor in Council, by order, to approve, give effect to and declare valid any subsequent final or transboundary agreement. Removes the application of the *Indian Act* in respect of any reserve identified as settlement land, once the final agreement is given

effect. Authorizes the Governor in Council to make such orders and regulations as are necessary to carry out a final or transboundary agreement. A consequential amendment to Schedule I to the *National Parks Act* adds descriptions for Vuntut and Kluane National Parks.

Yukon First Nations Self-Government Act

S.C. 1994, c. 35; RA 7 July, 1994.

CIF 14.02.95 (s. 40 & SI/95-19).

Brings into effect self-government agreements signed on May 29, 1993 with the following first nations:

Champagne and Aishihik First Nations
First Nation of Nacho Nyak Dun
Teslin Tlingit Council
Vuntut Gwitchin First Nation.

Provides for Governor in Council, by order, to bring into effect a self-government agreement concluded subsequent to this Act. Establishes a framework for first nation constitutions, laws, justice, and legislative powers. With certain exceptions, removes application of *Indian Act* in respect of first nations, and transfers to a first nation interests in lands previously held for the use and benefit of a predecessor band. A consequential amendment to the *Canada Lands Surveys Act* adds Settlement Land to the definition of Canada Lands.

Yukon Surface Rights Board Act

S.C. 1994, c. 43; RA 15 December, 1994.

CIF 15.02.95 (SI/95-19).

Implements the provisions of the land claim settlement agreement with the Yukon first nations and, in respect of certain lands in the Yukon, with the Tetlit Gwich'in, that give certain dispute-resolution functions to a new board.

Establishes the Yukon Surface Rights Board. Persons applying to the Board for an order must have first attempted to resolve their dispute by negotiation. The Board has the authority to issue orders setting the terms and conditions in respect of those rights of access across Yukon first nation or Tetlit Gwich'in settlement lands and orders resolving a dispute between an owner or occupant of non-settlement land and a person with a mineral right respecting access to land.

PART 2 — PROVINCIAL AND TERRITORIAL BOUNDARIES**Alberta-British Columbia Boundary Act, 1932**

S.C. 1932, c. 5; RA 4 April 1932.

Declares that the boundary line surveyed and marked on the ground to delimit the boundary between Alberta and British Columbia from the International Boundary on the forty-ninth parallel of north latitude to north latitude fifty seven degrees is the boundary between the provinces.

Alberta-British Columbia Boundary Act, 1955

S.C. 1955, c. 24; RA 28 June 1955.

Declares that the boundary line surveyed and marked on the ground to delimit the boundary between Alberta and British Columbia from latitude north fifty-seven degrees to the sixtieth degree of north latitude is the boundary between the provinces.

Alberta-British Columbia Boundary Act, 1974

S.C. 1974-75-76, c. 11; RA 13 December 1974.

CIF 26.06.75 (SI/75-69).

Creates the Alberta-British Columbia Boundary Commission to resurvey, or have resurveyed, the boundary; to settle disputes respecting the boundary; and to establish, restore and maintain survey monuments. Provides for procedures to proclaim the boundary line to be the boundary between the provinces.

Alberta-Northwest Territories Boundary Act, 1958

S.C. 1957-58, c. 23; RA 31 January 1958.

Declares that the boundary line surveyed and marked on the ground in 1924 and 1925 to delimit the boundary between Alberta and the Northwest Territories is the boundary.

British Columbia-Yukon-Northwest Territories Boundary Act, 1967

S.C. 1967-68, c. 12; RA 21 December 1967.

CIF 01.05.68 (SOR/68-208).

Declares that the boundary line surveyed and marked on the ground to delimit the boundary between British Columbia and the Yukon Territory and the Northwest Territories is the boundary.

Manitoba Boundaries Extension Act, 1912

S.C. 1912, c. 32; RA 1 April 1912.

Increases the limits of Manitoba so that the boundaries of Manitoba will be as described in the Act. Extends Manitoba to the sixtieth parallel of north latitude; to Saskatchewan boundary; to Ontario boundary; to the shores of Hudson Bay. Provides for swamp lands and retains all Crown lands, mines, minerals, royalties and interests in certain waters for the federal government.

S.C. 1950, c. 16.

Manitoba Boundaries Extension Act, 1930

S.C. 1930, c. 28; RA 10 April 1930.

Adds two parcels of land situated in the Northwest Angle Inlet of Lake of the Woods to Manitoba. The two parcels are described in the Schedule to the Act.

Manitoba-Northwest Territories Boundary Act, 1966

S.C. 1966-67, c. 61; RA 21 December 1966.

CIF 01.05.68 (SOR/68-209).

Declares that the boundary line surveyed and marked on the ground to delimit the boundary between Manitoba and the Northwest Territories is the boundary.

Manitoba-Saskatchewan Boundary Act, 1966

S.C. 1966-67, c. 57; RA 14 December 1966.

CIF 01.05.68.

Declares that the boundary line surveyed and marked on the ground to delimit the boundary between Manitoba and Saskatchewan is the boundary between the provinces.

North-western, Northern, and North-eastern Boundaries of the Province of Quebec Act, 1898

S.C. 1898, c. 3; RA 13 June 1898.

Described the north-western, northern and north-eastern boundaries of the Province of Quebec. Extended the northwestern boundary north along the eastern boundary of the Province of Ontario to James Bay and along the shore of James Bay to the East Main River. The north-eastern boundary was described as

the westerly boundary of the territory under the jurisdiction of Newfoundland and then southerly along the boundary to the Gulf of St. Lawrence. Companion provincial legislation is: *An Act respecting the delineation of the Northwestern, Northern and Northeastern boundaries of the Province of Quebec* c. 6, 1898 (Quebec).

Ontario Boundaries Extension Act, 1912

S.C. 1912, c. 40; RA 1 April 1912.

Increases the limits of Ontario to include territory bounded as described in the Act. Extends Ontario to the shores of Hudson Bay. Provides that the management of Indian Lands remains in the federal government.

S.C. 1950, c. 16.

Ontario-Manitoba Boundary Act, 1953

S.C. 1953-54, c. 9; RA 16 February 1954.

Declares that the boundary line surveyed in 1897, 1921, 1929 and 1931 to delimit the boundary between Ontario and Manitoba is the boundary line between the provinces. A schedule to the Act describes the boundary from the International Boundary to the southern shore of Hudson Bay.

Quebec Boundaries Extension Act, 1912

S.C. 1912, c. 45; RA 1 April 1912.

Increases the limits of Quebec to include territory bounded as described in the Act. Extends Quebec to the shores of Hudson Bay, Hudson Strait, and to the boundary of Newfoundland. Provides that the management of Indian Lands remains in the federal government. Companion provincial legislation is *An Act respecting the extension of the Province of Quebec by the annexation of Ungava* c.7, 2 George V (Quebec).

S.C. 1946, c. 29; S.C. 1976-77, c. 32.

Saskatchewan-Northwest Territories Boundary Act, 1966

S.C. 1966-67, c. 58; RA 14 December 1966.

CIF 01.05.68.

Declares that the boundary line surveyed and marked on the ground to delimit the boundary between Saskatchewan and the Northwest Territories is the boundary.

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Provincial and Territorial Boundaries

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Yukon First Nation Land Claim Settlement Act
Yukon First Nation Self-Government Act
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REGULATIONS OF CANADA

Introduction

Contents

This Chapter contains excerpts or summaries of regulations and statutory instruments as defined in the *Statutory Instruments Act* (except for the section on Coordinated Survey Areas). The excerpts are from the *Consolidated Regulations of Canada, 1978*, the *Canada Gazette* Part II, and the *Canada Gazette* Part I for Coordinated Survey Areas.

The *Consolidated Regulations of Canada, 1978* is a consolidation and revision of the regulations which were in force on 31 December, 1977. Regulations and statutory instruments that came into force after that date are required to bring the C.R.C. to date. These regulations and statutory instruments are published in the *Canada Gazette* Part II.

Caution

The excerpts in this Part of the Manual have been prepared for convenience of reference only and have no official sanction. Reference to excerpts is at the user's discretion. The Legal Surveys Division, Department of Natural Resources, assumes no responsibility for any reproduction of the excerpts.

For all purposes of interpreting and applying the law, users should consult the regulations as proclaimed by Order in Council which are published in:

- (a) the *Consolidated Regulations of Canada, 1978*; or
- (b) the *Canada Gazette* Part II.

The above mentioned publications are available in most public libraries. They may also be purchased from the Canada Communication

Group, Publishing, Public Works and Government Services Canada or from bookstores that sell Canadian Government publications. Copies of individual regulations may be obtained directly from the Privy Council Office, Ottawa.

Abbreviations

The following abbreviations are used in this Part of the Manual:

| <u>Abbreviation</u> | <u>Definition</u> |
|---------------------|---|
| c. | chapter |
| C.R.C. | <i>Consolidated Regulations of Canada, 1978</i> |
| CIF | came in force |
| ex. | except |
| s. | section |
| Sch. | Schedule |
| SI | Statutory Instrument |
| SOR | Statutory Order and Regulation |
| ss. | sections |

Organization of Regulations

The regulations are compiled in alphabetical order under the Act under which they were made. Each regulation is organized into three parts:

- (a) the heading;
- (b) the excerpts or a summary; and
- (c) the ending annotations.

Heading

The heading contains the title of the regulation, the name of the Act under which it was made, and the source of the excerpts. For example, the heading for the *Canada Mining Regulations* appears as follows:

Canada Mining Regulations

(*Territorial Lands Act* and *Federal Real Property Act*)

Excerpts from
Chapter 1516, C.R.C.
 As amended

From the example above, the *Canada Mining Regulations* are made under the *Territorial Lands Act* and the *Federal Real Property Act*. The excerpts come from chapter 1516 of the *Consolidated Regulations of Canada* as may have been amended over time.

Excerpts or Summary

The main body contains excerpts or a summary of the regulation. In the excerpts, each section or part thereof is numbered to correspond to the regulation. A 3 centimetre line separator indicates the end of each section. A reference appears immediately below the line separator if the section has been amended since its original enactment. For example, the excerpts of sections 8 and 9 of the *Canada Oil and Gas Land Regulations* appear as follows:

8. (1) Every section shall be divided into units.

(2) Every unit shall be bounded on the east and west sides by meridians spaced at intervals of one-quarter of the interval between the east and west boundaries of the section.

(3) Every unit shall be bounded on the north and south sides by straight lines drawn parallel to the north and south boundaries of the section and spaced at intervals of one-quarter of the interval between the north and south boundaries of the section.

(4) Every unit shall be identified by the letter to which it corresponds in the following diagram:

| | | | |
|---|---|---|---|
| M | N | O | P |
| L | K | J | I |
| E | F | G | H |
| D | C | B | A |

9. All latitudes and longitudes used in these Regulations shall be referred to the North American Datum of 1927.

SOR/80-590.

In the above excerpts, section 8 has not been amended, whereas section 9 has been amended by Statutory Order and Regulation number 80-590. The excerpts reflect all applicable amendments.

Ending Annotations

Annotations are added at the end of the excerpts for reference purposes. These annotations specify the statutory authority for the regulation; the source of the original regulation; the coming into force date of the regulation if it originates from the *Canada Gazette* Part II; and list the enactments that amend the regulation together with coming into force dates.

For example, the following references appear at the end of the *Territorial Lands Regulations*:

The *Territorial Lands Regulations* are made pursuant to section 23 of the *Territorial Lands Act*. The excerpts that appear above are from chapter 1525 of the *Consolidated Regulations of Canada* as amended by :

- SOR/96-111 (13.02.96).

In the above example, the regulation as it appeared in chapter 1525 of the *Consolidated Regulations of Canada, 1978* has been amended by Statutory Order and Regulation number 96-111. The amendment came into force 13 February, 1996.

Explanatory Notes

Where it was deemed necessary for clarity, explanatory notes are added within the excerpts. These notes appear in shaded boxes similar to the box below.



These notes form no part of the enactment and are inserted for convenience of reference only.

In force dates

The *Consolidated Regulations of Canada, 1978* contain all the regulations that were in force on 31 December, 1977. Regulations originating from the *Consolidated Regulations of Canada, 1978* are deemed to be in force on that date.

Any other regulation or statutory instrument comes into force on the day it is registered by the Clerk of the Privy Council unless there is a provision specifying that the regulation, or parts thereof, comes into force at a later date. In this Manual, references to an enactment that was not included in the *Consolidated Regulations of Canada, 1978* contain the coming into force date inside parentheses.

For example, a reference such as

- SOR/94-753 (01.01.95).

means that the regulation registered under 94-753 came into force on 1 January, 1995.

How current are the excerpts?

This Chapter contains only regulations which are in force on the applicable date indicated in the Table of Consolidation preceding Part A of this Manual. All excerpts are updated to that date.

Airport Zoning Regulations*(Aeronautics Act)***Summary only**

Airport Zoning Regulations are made pursuant to section 5.4 of the *Aeronautics Act* (R.S.C. 1985, c. A-2). These regulations control the use of lands on lands adjacent to or in the vicinity of a federal airport or airport site. Each zoning regulation describes the lands to which it applies and the allowable development on such lands.

These regulations are published in the *Canada Gazette, Part II*. An airport zoning regulation, together with a plan and description of the lands, signed by the appropriate Minister and by a land surveyor duly licensed in and for the province in which the lands are situated is also deposited on record in the office of the registrar of deeds or land titles in each county, district or registration division in which any part of the lands are situated.

Excerpts of these regulations are not included in this Manual. A copy of a particular zoning regulation may be obtained from

- a) the appropriate registry or land titles office;
- b) Canada Communication Group, Publishing, Ottawa, Canada;
- c) an associated bookstore for the sale of Canadian government publications.

Many public libraries also have copies of the *Consolidated Regulations of Canada* and the *Canada Gazette* (Part II).

Coordinated Survey Areas

(Canada Lands Surveys Act)

Summary only

Pursuant to the provisions of subsection 28(1) of the *Canada Lands Surveys Act*, the Minister of Natural Resources Canada may establish or alter a Coordinated Survey Area (CSA) within any lands dealt with in the *Canada Lands Surveys Act* by publishing a notice in the *Canada Gazette* (Part I).

Coordinated Survey Areas established in accordance with the provisions of said subsection 28(1) are listed in Table A3-1. CSA's are depicted on plans registered in the Canada Lands Surveys Records. The *Canada Lands Surveys Act* applies to a CSA from the date the CSA is published in the *Canada Gazette*.

Table A3-1
Coordinated Survey Areas

| COORDINATED SURVEY AREAS | DATE OF PUBLICATION IN CANADA GAZETTE PART I | CLSR PLAN NUMBER |
|---|--|------------------------|
| Alberta | | |
| Townsite of Banff | 04.03.72 | 57043 |
| Jasper | 18.06.77 | 61168 |
| Lake Louise | 14.10.89 | 70376 |
| British Columbia | | |
| Townsite of Field | 14.08.71 | 56627 |
| Northwest Territories | | |
| Iqaluit (Frobisher Bay) | 11.02.78 | 62980 |
| Hay River | 18.06.77 | 60928 |
| Inuvik | 31.12.77 | 63155 |
| Rankin Inlet | 11.02.78 | 63715 |
| Yellowknife | 14.08.71 | 56625 |
| Yukon Territory | | |
| Dawson | 14.08.71 | 56626 |
| (The Dawson CSA was disestablished by SOR.84-387) . . | 17.05.84 | |
| Ross River | 21.04.79 | 64654 |
| Whitehorse | 30.09.67 | 53234 |
| | 18.06.77 | 60926 |

Newfoundland Offshore Area Registration Regulations
(Canada-Newfoundland Atlantic Accord Implementation Act)

Excerpts from
SOR/88-263 (05.05.88)
As amended

**REGULATIONS RESPECTING THE ADMINISTRATION
AND REGISTRATION OF INTERESTS AND
INSTRUMENTS IN RELATION TO THE
NEWFOUNDLAND OFFSHORE AREA AND
PRESCRIBING FEES TO BE PAID IN RESPECT OF
SUCH INTERESTS AND INSTRUMENTS**

Short Title

1. These Regulations may be cited as the
Newfoundland Offshore Area Registration Regulations.

Interpretation

2. In these Regulations,

"Act" means the *Canada-Newfoundland Atlantic Accord Implementation Act*;

"Newfoundland offshore area" means the offshore area.

Registrar

3. The Registrar shall supervise the operation of the system of registration established under Division VIII of Part II of the Act in accordance with that Division and these Regulations.

Interests

5. (1) Where the Registrar receives an original copy of an interest from the Board, the Registrar shall

(a) register the interest by endorsing a memorandum of registration on the interest specifying the registration number of the interest and the time and date of registration; and

(b) prepare an abstract of the interest and forthwith enter the abstract in a book to be maintained as the register.

(2) The abstract referred to in paragraph (1)(b) shall contain the following information:

(a) the type, effective date and term of the interest;

(b) the name of the interest owner or, where the interest owner consists of two or more interest holders, the name of each holder;

(c) the particulars of the shares in the interest; and

(d) a description of the Newfoundland offshore area, geological formations and substances to which the interest applies.

(5) The Registrar shall record in the abstract of the relevant interest

(a) changes to the information recorded in the abstract arising by virtue of an amendment to that interest or the operation of section 74 or 83 of the Act;

(b) every order, decision or action of the Board made in relation to that interest that is expressly stated in the Act to be subject to section 124 of the Act;

(c) every order made pursuant to section 56 of the Act in relation to that interest;

(d) every notice given by the Board pursuant to subsection 79(1) or 123(1) of the Act in relation to that interest; and

(e) the extension of the term of that interest or the continuation of that interest beyond its term pursuant to any provision of the Act.

(6) Where an interest expires or is cancelled, the Registrar shall endorse a memorandum to that effect on the original copy of that interest maintained pursuant to paragraph 7(2)(a) and shall make a notation of the expiration or cancellation in the abstract of that interest.

(7) Where two or more interests are consolidated pursuant to subsection 68(3) or section 82 of the Act,

the Registrar shall prepare an abstract of the consolidated interest and forthwith enter that abstract in the register.

(8) Each abstract entered in the register pursuant to subsection (7) shall contain the notations made in the abstracts of the interests that have been consolidated.

Instruments

6. (1) The Registrar shall stamp each document submitted for registration under Division VIII of Part II of the Act with the date and time of its receipt at the office of the Registrar.

(2) The Registrar shall keep a record to be called "the day-book" and, forthwith on receipt of a document submitted for registration, shall record therein in chronological order

- (a) the type and date of the document;
- (b) the name of the person submitting the document; and
- (c) the date and time of receipt of the document at the office of the Registrar.

(3) Where the Registrar refuses to register a document, the Registrar shall forthwith record in the daybook with respect to that document the fact of the refusal.

(4) Where the Registrar accepts a document for registration as an instrument, the Registrar shall forthwith

- (a) register the instrument;
- (b) make a notation of the registration of the instrument in the abstract of each interest to which the instrument relates; and
- (c) record in the daybook with respect to that instrument the fact of the registration.

(5) Where the registration of an instrument is cancelled pursuant to any provision of the Act or these Regulations, the Registrar shall make a notation of the cancellation in each abstract in which a notation of the registration of the instrument appears.

Office

7. (1) The office of the Registrar shall be located at St. John's and shall be kept open from 9:00 a.m. to 4:00 p.m. Monday to Friday, with the exception of

statutory holidays on which days the offices of the Board in St. John's are closed.

(2) The Registrar shall maintain at the office of the Registrar

- (a) the original copies of every interest and instrument registered under Division VIII of Part II of the Act;
- (b) the register; and
- (c) the daybook.

Searches

8. (1) On request and payment of the appropriate fee prescribed by section 14, any person may, at the office of the Registrar, inspect the daybook, the register and any copies of any interest or instrument registered under Division VIII of Part II of the Act.

(2) On request and payment of the appropriate fee prescribed by section 14, the Registrar shall furnish to the person making the request a certified exact copy of

- (a) any interest or instrument registered under Division VIII of Part II of the Act; and
- (b) the abstract of any interest.

(3) The Registrar may, for the purposes of subsection (2), certify that an enlarged print made from a microphotographic film or an electronic or magnetic recording of an abstract, interest or instrument is an exact copy of the abstract, interest or instrument.

Corrections

9. (1) The Registrar may cancel the registration of any instrument registered in error.

(2) Where the particulars of any interest, instrument or other matter required by these Regulations to be recorded or noted in an abstract have not been recorded or noted or have, been recorded or noted incorrectly, the Registrar shall forthwith correct the omission or error when the omission or error becomes known to the Registrar.

(3) The Registrar shall send a certified exact copy of each abstract corrected pursuant to subsection (2) to

- (a) the interest owner of the interest to which the corrected abstract relates or, where a representative has been appointed or designated pursuant to section 53 of the Act, to the representative; and

(b) the secured party under each security notice registered in respect of the interest to which the corrected abstract relates that has not been fully discharged as of the time of the correction.

Demand for Information

10. Those persons that have written authorization from a person referred to in paragraph 113(1)(a), (b) or (c) of the Act to serve a demand for information are members of a prescribed class for the purposes of subsection 113(1) of the Act.

The *Newfoundland Offshore Area Registration Regulations* are made pursuant to subsections 53(1) and 113(1) and sections 118 and 125 of the *Canada-Newfoundland Atlantic Accord Implementation Act*. The excerpts that appear above are from SOR/88-263 (05.05.88).

Newfoundland Offshore Petroleum Drilling Regulations

(Canada-Newfoundland Atlantic Accord Implementation Act)

Excerpts from
SOR/93-23 (28.01.93)

As amended

REGULATIONS RESPECTING THE DRILLING FOR PETROLEUM IN THE NEWFOUNDLAND OFFSHORE AREA

Short Title

1. These Regulations may be cited as the
Newfoundland Offshore Petroleum Drilling Regulations.

Interpretation

2. In these Regulations,

"Act" means the *Canada-Newfoundland Atlantic Accord Implementation Act*;

"Approval to Drill" means the approval granted to an operator pursuant to Part II to drill a well;

"Approval to Re-enter" means the approval granted to an operator pursuant to Part II to re-enter a well for the purpose of conducting a downhole operation;

"Chief" means the Chief Conservation Officer;

"development well" means a well that is drilled in a field or pool for the purpose of the

- (a) production of fluids from the well,
- (b) observation of the performance of a reservoir,
- (c) injection of fluids into the well, or
- (d) disposal of fluids into the well;

"discovery well" means an exploratory well that is in a significant discovery area;

"drilling base" means the stable foundation on which a drilling rig is installed and includes a platform fixed to or resting on the seafloor;

"drilling installation" means

- (a) a drilling unit, or
- (b) a drilling rig and its drilling base;

"drilling rig" means the plant used to make a well by boring or other means and includes a derrick, draw works, rotary table, mud pump, blowout preventer, accumulator, choke manifold and other associated

equipment including power, control and monitoring systems;

"drilling unit" means a drillship, submersible, semi-submersible, barge, jack-up or other vessel used in a drilling program and fitted with a drilling rig, and includes the drilling rig and other facilities related to the drilling program that are installed on the vessel;

"exploratory well" means a well, other than a development well or test hole, that is drilled for the purpose of discovering petroleum or obtaining geological information;

"legal survey" means a survey made in accordance with the instructions of the Surveyor General;

"operator" means an individual or company that has applied for or has been given a Drilling Program Authorization;

"relief well" means a well drilled to assist in controlling a blowout in an existing well;

"seafloor" means the surface of all that portion of land under the sea;

"spud-in" means, in respect of the drilling of a well, the initial penetration of the seafloor;

"test hole" means any hole, other than a well or seismic shot hole, drilled through sedimentary rock to a depth of more than 30 m;

SOR/95-101.

Application

3. These Regulations apply

- (a) to every operator who explores or drills for petroleum under the Act;
- (b) in respect of every well and test hole drilled under the Act.

Submission of Information

4. Any information that is required to be submitted under these Regulations shall be prepared and

submitted in a form and manner satisfactory to the Board or any person designated by the Board.

PART II

APPROVAL TO DRILL OR APPROVAL TO RE-ENTER A WELL OR TO DRILL A TEST HOLE

Application

68. (1) Every operator shall submit to the Board an application for an Approval to Drill or Approval to Re-enter not less than 21 days prior to the date that operator plans to spud-in or re-enter.

(2) The application required by subsection (1) shall include the following information:

- (a) the name of the well;
- (b) the geographical coordinates of the well;
- (c) the proposed depth of the well;
- (h) the elevation of the rotary table;
- (i) the depth of the water at the drill site;
- (k) such other information as the Board or any person designated by the Board may require.

(3) The application required by subsection (1) shall be accompanied by

- (a) a tentative survey plan showing the location of the proposed well and a description of the survey system that will be used to establish the position of the well.

PART III

OPERATIONAL REQUIREMENTS

Surveys

74. (1) Every operator shall ensure that a legal survey is used to confirm the location of

- (a) any development well;
- (b) any discovery well; or
- (c) any other well, on the request of the Chief.

(2) Every operator shall determine the geographical location of any exploratory well by a survey made in accordance with recognized surveying practices as soon as practicable after the drilling installation is in position at the well location.

Safety Zone

75. (1) For the purposes of this section, the safety zone around a drilling installation consists of

- (a) the area within a line enclosing and drawn at a distance of 500 m from the perimeter of the drilling installation; and
- (b) the area within a line enclosing and drawn at a distance of 50 m from the anchor pattern, if any, of the drilling installation.

(2) No person, other than a person authorized by the operator or the Board or any person designated by the Board, shall enter the safety zone around a drilling installation as described in subsection (1).

(3) Every operator shall take all reasonable measures to warn persons who are in charge of vessels and aircraft and who are not authorized to enter the safety zone, of the boundaries of the safety zone.

PART V

OPERATIONAL RECORDS AND REPORTS

Submission of Survey Plan

147. Every operator shall submit to the Chief, in triplicate, a plan of any legal survey made pursuant to section 74 as soon as practicable.

The *Newfoundland Offshore Petroleum Drilling Regulations* are made pursuant to subsection 149(1) of the *Canada-Newfoundland Atlantic Accord Implementation Act*. The excerpts that appear above are from SOR/88-263 (28.01.93) as amended by:

- SOR/95-101 (21.02.95).

Nova Scotia Offshore Petroleum Drilling Regulations

(Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act)

Excerpts from
SOR/92-676 (19.11.92)
As amended

REGULATIONS RESPECTING THE DRILLING FOR PETROLEUM IN THE NOVA SCOTIA OFFSHORE AREA

Short Title

1. These Regulations may be cited as the *Nova Scotia Offshore Petroleum Drilling Regulations*.

Interpretation

2. In these Regulations,

"Act" means the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*;

"Approval to Drill" means the approval granted to an operator pursuant to Part II to drill a well;

"Approval to Re-enter" means the approval granted to an operator pursuant to Part II to re-enter a well for the purpose of conducting a downhole operation;

"Chief" means the Chief Conservation Officer;

"development well" means a well that is drilled in a field or pool for the purpose of the

- (a) production of fluids from the well,
- (b) observation of the performance of a reservoir,
- (c) injection of fluids into the well, or
- (d) disposal of fluids into the well;

"discovery well" means an exploratory well that is in a significant discovery area;

"drilling base" means the stable foundation on which a drilling rig is installed and includes a platform fixed to or resting on the seafloor;

"drilling installation" means

- (a) a drilling unit, or
- (b) a drilling rig and its drilling base;

"drilling rig" means the plant used to make a well by boring or other means and includes a derrick, draw works, rotary table, mud pump, blowout preventer, accumulator, choke manifold and other associated

equipment including power, control and monitoring systems;

"drilling unit" means a drillship, submersible, semi-submersible, barge, jack-up or other vessel used in a drilling program and fitted with a drilling rig, and includes the drilling rig and other facilities related to the drilling program that are installed on the vessel;

"exploratory well" means a well, other than a development well or test hole, that is drilled for the purpose of discovering petroleum or obtaining geological information;

"legal survey" means a survey made in accordance with the instructions of the Surveyor General;

"operator" means an individual or company that has applied for or has been given a Drilling Program Authorization;

"relief well" means a well drilled to assist in controlling a blowout in an existing well;

"seafloor" means the surface of all that portion of land under the sea;

"spud-in" means, in respect of the drilling of a well, the initial penetration of the seafloor;

"test hole" means any hole, other than a well or seismic shot hole, drilled through sedimentary rock to a depth of more than 30 m;

Application

3. These Regulations apply

- (a) to every operator who explores or drills for petroleum under the Act;
- (b) in respect of every well and test hole drilled under the Act.

Submission of Information

4. Any information that is required to be submitted under these Regulations shall be prepared and

submitted in a form and manner satisfactory to the Board or any person designated by the Board.

PART II

APPROVAL TO DRILL OR APPROVAL TO RE-ENTER A WELL OR TO DRILL A TEST HOLE

Application

68. (1) Every operator shall submit to the Board an application for an Approval to Drill or Approval to Re-enter not less than 21 days prior to the date that operator plans to spud-in or re-enter.

(2) The application required by subsection (1) shall include the following information:

- (a) the name of the well;
- (b) the geographical coordinates of the well;
- (c) the proposed depth of the well;
- (h) the elevation of the rotary table;
- (i) the depth of the water at the drill site;
- (k) such other information as the Board or any person designated by the Board may require.

(3) The application required by subsection (1) shall be accompanied by

- (a) a tentative survey plan showing the location of the proposed well and a description of the survey system that will be used to establish the position of the well.

PART III

OPERATIONAL REQUIREMENTS

Surveys

74. (1) Every operator shall ensure that a legal survey is used to confirm the location of

- (a) any development well;
- (b) any discovery well; or
- (c) any other well, on the request of the Chief.

(2) Every operator shall determine the geographical location of any exploratory well by a survey made in accordance with recognized surveying practices as soon as practicable after the drilling installation is in position at the well location.

Safety Zone

75. (1) For the purposes of this section, the safety zone around a drilling installation consists of

- (a) the area within a line enclosing and drawn at a distance of 500 m from the perimeter of the drilling installation; and
- (b) the area within a line enclosing and drawn at a distance of 50 m from the anchor pattern, if any, of the drilling installation.

(2) No person, other than a person authorized by the operator or the Board or any person designated by the Board, shall enter the safety zone around a drilling installation as described in subsection (1).

(3) Every operator shall take all reasonable measures to warn persons who are in charge of vessels and aircraft and who are not authorized to enter the safety zone, of the boundaries of the safety zone.

PART V

OPERATIONAL RECORDS AND REPORTS

Submission of Survey Plan

147. Every operator shall submit to the Chief, in triplicate, a plan of any legal survey made pursuant to section 74 as soon as practicable.

The Nova Scotia Offshore Petroleum Drilling Regulations are made pursuant to section 153 of the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act. The excerpts that appear above are from SOR/92-676 (19.11.92) as amended by:

- SOR/95-188 (11.04.95).

Canada Oil and Gas Drilling Regulations*(Canada Oil and Gas Operations Act)*

Excerpts from
SOR/79-82 (22.01.79)
 As amended

**REGULATIONS RESPECTING THE EXPLORATION
 AND DRILLING FOR AND THE CONSERVATION OF
 OIL AND GAS AND THE MEASURES TO ENSURE
 THE SAFETY OF SUCH OPERATIONS**

Short Title

1. These Regulations may be cited as the *Canada Oil and Gas Drilling Regulations*.

Interpretation

2. In these Regulations,

"Act" means the *Canada Oil and Gas Operations Act*;

"Approval to Drill" means an Approval to Drill granted to an operator in respect of a well pursuant to section 83;

"Approval to Re-enter" means an Approval to Re-enter granted to an operator in respect of a well pursuant to section 83 that entitles the operator to re-enter a well for the purpose of conducting a downhole operation;

"Chief" means the Chief Safety Officer or the Chief Conservation Officer, as applicable in accordance with the Act;

"development well" means a well that is drilled in a field or pool for the purpose of the

- (a) production of fluids from the well,
- (b) observation of the performance of a reservoir,
- (c) injection of fluids into the well, or
- (d) disposal of fluids into the well;

"discovery well" means an exploratory well that, in the opinion of the Chief, has encountered oil or gas in quantities of commercial significance;

"drilling installation" means a drilling unit or a drilling rig and its associated drilling base, and includes any associated dependent diving system;

"drilling unit" means a drillship, submersible, semi-submersible, barge, jack-up or other vessel used in a

drilling program and includes a drilling rig and other related facilities installed on a vessel;

"exploratory well" means a well or part of a well, other than a development well or test hole, that is drilled for the purpose of discovering oil or gas or obtaining geological information;

"legal survey" means a survey made in accordance with instructions of the Surveyor General;

"offshore" means, with respect to a drill site, a location within a water covered area that is not an island, an artificial island or an ice platform;

"onshore" means, with respect to a drill site, a location other than offshore;

"operator" means an individual or company that seeks or has been granted approval pursuant to these Regulations to conduct a drilling program;

"seafloor" means the surface of all that portion of land under the sea;

"spud-in" means, in respect of the drilling of a well, the initial penetration of the ground or seafloor;

"test hole" means any hole, other than a well or seismic shot hole, drilled through sedimentary rock to a depth of more than 30 m;

SOR/80-641;

SOR/96-116.

Application

3. (1) These Regulations apply

- (a) to every operator who explores or drills for oil or gas under the Act; and
- (b) in respect of every well and test hole drilled under the Act.

SOR/96-116.

Submission of Information

4. Any information that is required to be submitted under these Regulations shall be prepared and submitted in a form and manner satisfactory to the Chief.

PART II**AUTHORITY TO DRILL A WELL***Granting, Suspension and Revocation of Approvals*

82. (1) Every operator shall submit to the Chief an application for an Approval to Drill or Approval to Re-enter not less than 21 days before the date on which the operator plans to spud-in or re-enter.

(2) The application required under subsection (1) shall be in a form satisfactory to the Chief and shall include

- (a) the name of the well;
- (b) the geographical coordinates of the well;
- (c) the proposed depth of the well;
- (h) where the proposed well is onshore,
 - (i) the elevation of the ground surface at the well-head, and
 - (ii) the elevation of the rotary table;
- (i) where the proposed well is offshore,
 - (i) the elevation of the rotary table, and
 - (ii) the depth of the water at the drill site;
- (k) such other information as the Chief may require.

(3) The application required pursuant to subsection (1) shall be accompanied by

- (a) the tentative survey plan described in section 87;
- (b) any approved plan described in section 88; and

SOR/88-489;

SOR/96-116.

Location of Well

87. Where the proposed well is offshore, the operator shall

- (a) prepare a tentative survey plan showing the location of the proposed well; and

- (b) describe the survey system that will be used to establish the position of the well.

88. (1) Where a proposed well is onshore and is to be located within 100 m of the normal high water mark of a body of water or permanent stream, the operator shall submit evidence that he has obtained prior written approval of his plan to prevent pollution of the water from such regulatory bodies as may have jurisdiction in respect of the drill site.

(2) The plans referred to in subsection (1) shall

- (a) indicate the elevation of the land and water surfaces adjoining the drill site;

PART IV**DRILLING OF A WELL***Surveys*

104. (1) A legal survey shall be used to confirm the location of

- (a) any development well;
- (b) any exploratory well that has been assigned the status of a discovery well by the Chief under section 221; or
- (c) any other well, on the request of the Chief.

(2) The geographical location of any exploratory well that is offshore shall be determined by a survey made in accordance with recognized surveying practices as soon as practicable after the drilling unit is in position at the well location.

(3) The geographical location and dimensions of an artificial island shall be determined by a survey made in accordance with recognized surveying practices.

PART VI**OPERATIONAL RECORDS AND REPORTS***Submission of Survey Plan*

173. Every operator shall submit to the Chief, in triplicate, a plan of any legal survey made pursuant to section 104 as soon as practical.

The *Canada Oil and Gas Drilling Regulations* are made pursuant to section 14 of the *Canada Oil and Gas Operations Act* (formerly *Oil and Gas Production and Conservation Act*). The excerpts that appear above are from SOR/79-82 (22.01.79) as amended by:

- SOR/80-641 (05.08.80).
- SOR/88-489 (22.09.88).
- SOR/96-116 (13.02.96).

Frontier Lands Registration Regulations*(Canada Petroleum Resources Act)*

Excerpts from
SOR/88-230 (14.04.88)
As amended

**REGULATIONS RESPECTING THE ADMINISTRATION
AND REGISTRATION OF INTERESTS AND
INSTRUMENTS IN RELATION TO FRONTIER LANDS
AND PRESCRIBING FEES TO BE PAID IN RESPECT
OF SUCH INTERESTS AND INSTRUMENTS***Short Title*

1. These Regulations may be cited as the *Frontier Lands Registration Regulations*.

Interpretation

2. In these Regulations, "Act" means the *Canada Petroleum Resources Act*.

Registrar

3. The Registrar shall supervise the operation of the system of registration established under Part VIII of the Act in accordance with that Part and these Regulations.

Interests

5. (1) Where the Registrar receives an original copy of an interest from the Minister, the Registrar shall

- (a) register the interest by endorsing a memorandum of registration on the interest specifying the registration number of the interest and the time and date of registration; and
- (b) prepare an abstract of the interest and forthwith enter the abstract in a book to be maintained as the register.

(2) The abstract referred to in paragraph (1)(b) shall contain the following information:

- (a) the type, effective date and term of the interest;

(b) the name of the interest owner or, where the interest owner consists of two or more interest holders, the name of each holder;

(c) the particulars of the shares in the interest; and

(d) a description of the frontier lands, geological formations and substances to which the interest applies.

(5) The Registrar shall record in the abstract of the relevant interest

(a) changes to the information recorded in the abstract arising by virtue of an amendment to that interest or the operation of section 31 or 40 of the Act;

(b) every order, decision or action of the Minister made in relation to that interest that is expressly stated in the Act to be subject to section 106 of the Act;

(c) every order made pursuant to section 12 of the Act in relation to that interest;

(d) every notice given by the Minister pursuant to subsection 36(1) or 105(1) of the Act in relation to that interest; and

(e) the extension of the term of that interest or the continuation of that interest beyond its term pursuant to any provision of the Act.

(6) Where an interest expires or is cancelled, the Registrar shall endorse a memorandum to that effect on the original copy of that interest maintained pursuant to paragraph 7(2)(a) and shall make a notation of the expiration or cancellation in the abstract of that interest.

(7) Where two or more interests are consolidated pursuant to subsection 25(3) or section 39 of the Act, the Registrar shall prepare an abstract of the consolidated interest and forthwith enter that abstract in the register.

(8) Each abstract entered in the register pursuant to subsection (7) shall contain the notations made in the abstracts of the interests that have been consolidated.

Instruments

6. (1) The Registrar shall stamp each document submitted for registration under Part VIII of the Act with the date and time of its receipt at the office of the Registrar.

(2) The Registrar shall keep a record to be called "the day-book" and, forthwith on receipt of a document submitted for registration, shall record therein in chronological order

- (a) the type and date of the document;
- (b) the name of the person submitting the document; and
- (c) the date and time of receipt of the document at the office of the Registrar.

(3) Where the Registrar refuses to register a document, the Registrar shall forthwith record in the daybook with respect to that document the fact of the refusal.

(4) Where the Registrar accepts a document for registration as an instrument, the Registrar shall forthwith

- (a) register the instrument;
- (b) make a notation of the registration of the instrument in the abstract of each interest to which the instrument relates; and
- (c) record in the daybook with respect to that instrument the fact of the registration.

(5) Where the registration of an instrument is cancelled pursuant to any provision of the Act or these Regulations, the Registrar shall make a notation of the cancellation in each abstract in which a notation of the registration of the instrument appears.

Office

7. (1) The office of the Registrar shall be located at such place and shall be kept open during such business hours and on such days as are fixed by the Minister.

(2) The Registrar shall maintain at the office of the Registrar

- (a) the original copies of every interest and instrument registered under Part VIII of the Act;
- (b) the register; and
- (c) the daybook.

Searches

8. (1) On request and payment of the appropriate fee prescribed by section 15, any person may, at the office of the Registrar, inspect the daybook, the register and any copies of any interest or instrument registered under Part VIII of the Act.

(2) On request and payment of the appropriate fee prescribed by section 15 by a person, the Registrar shall furnish to the person making the request a certified exact copy of

- (a) any interest or instrument registered under Part VIII of the Act; and
- (b) the abstract of any interest.

(3) The Registrar may, for the purposes of subsection (2), certify that an enlarged print made from a microphotographic film or an electronic or magnetic recording of an abstract, interest or instrument is an exact copy of the abstract, interest or instrument.

Corrections

9. (1) The Registrar may cancel the registration of any instrument registered in error.

(2) Where the particulars of any interest, instrument or other matter required by these Regulations to be recorded or noted in an abstract have not been recorded or noted or haven been recorded or noted incorrectly, the Registrar shall forthwith correct the omission or error when the omission or error becomes known to the Registrar.

(3) The Registrar shall send a certified exact copy of each abstract corrected pursuant to subsection (2) to

- (a) the interest owner of the interest to which the corrected abstract relates or, where a representative has been appointed or designated pursuant to section 9 of the Act, to the representative; and
- (b) the secured party under each security notice registered in respect of the interest to which the

corrected abstract relates that has not been fully
discharged as of the time of the correction.

Demand for Information

10. Those persons that have written authorization from a person referred to in paragraph 95(1)(a), (b) or (c) of the Act to serve a demand for information are members of a prescribed class for the purposes of paragraph 95(1)(d) of the Act.

The *Frontier Lands Registration Regulations* are made pursuant to subsections 9(1) and 95(1) and sections 100 and 107 of the *Canada Petroleum Resources Act*. The excerpts that appear above are from SOR/88-230 (14.04.88).

Sable Island Regulations*(Canada Shipping Act)*

Excerpts from
Chapter 1465, C.R.C.
As amended

**REGULATIONS RESPECTING THE GOVERNMENT
OF SABLE ISLAND***Short Title*

1. These Regulations may be cited as the *Sable Island Regulations*.

Interpretation

2. In these Regulations,

"Act" means the *Canada Shipping Act*;

"Agent" means the District Marine Agent of the Department of Transport at Dartmouth, Nova Scotia;

"Island" means Sable Island;

"Minister" means the Minister of Transport.

General

3. The Island is under the control, management and administration of the Agent.

Access to Island

4. (1) No person shall go onto the Island without having first obtained written permission from the Agent.

(2) Subsection (1) does not apply to

(a) any person to whom the Minister has given a licence to reside on the Island;

(b) any employee of the Government of Canada carrying out duties on the Island; or

(c) any person landing on the Island by reason of stress of weather or by reason of the wreck or distress of any vessel or aircraft.

(3) The Agent shall not give permission for any person to go onto the Island unless he is satisfied that such person is adequately supplied and equipped to avoid falling into distress while on the Island.

Construction

5. No person shall, without having first obtained written permission from the Agent,

(a) erect any building or other structure on the Island or in the waters within 1 mile thereof;

(b) make any excavation or roadway or otherwise disturb the natural contours of the surface of the Island or of the bars or coasts thereof;

(c) use any explosive on the Island or in the waters within 1 mile thereof.

The *Sable Island Regulations* are made pursuant to section 519 of the *Canada Shipping Act*. The excerpts that appear above are from Chapter 1465 of the *Consolidated Regulations of Canada*.

Wildlife Area Regulations*(Canada Wildlife Act)*

Excerpts from
Chapter 1609, C.R.C.
As amended

**REGULATIONS RESPECTING THE MANAGEMENT
OF WILDLIFE AREAS AND THE CONTROL
THEREOF***Short Title*

1. These Regulations may be cited as the *Wildlife Area Regulations*.

Interpretation.

2. In these Regulations,

"Act" means the *Canada Wildlife Act*;

"plant" means any plant belonging to a species that is wild by nature or that is not easily distinguishable from such a species;

"wildlife area" means an area of public lands, the administration of which has been assigned to the Minister pursuant to subsection 4(1) of the Act and the description of which is set out in Schedule I.

SOR/78-408;
SOR/85-227;
SOR/94-594;
SOR/95-78;
SOR/96-442.

General Prohibitions

3. (1) Subject to subsection (2), no person shall, in any wildlife area,

(d) damage, destroy or remove a plant,

(g) swim, picnic, camp or carry on any other recreational activity or light and maintain a fire,

(j) remove, deface, damage, or destroy any artifact, natural object, building, fence, poster, sign, or other structure,

unless he does so under and in accordance with a permit issued by the Minister pursuant to section 4.

(2) Where the Minister has published a notice in a local newspaper or posted a notice at the entrance of any wildlife area or on the boundary of any part thereof permitting an activity described in subsection (1), any person may carry on the activity described in the notice if the activity is carried on in accordance with the notice.

SOR/78-408;
SOR/94-594;
SOR/96-442.

Permits

4. The Minister may, on application, issue a permit to any person authorizing that person to carry on an activity described in section 3 in any wildlife area where that activity will not interfere with the conservation of wildlife.

SOR/82-871.

8. Where the Minister has published a notice in a local newspaper or posted a notice at the entrance of any wildlife area or on the boundary of any part thereof prohibiting entry to any wildlife area or part thereof, no person shall enter the area or part thereof set out in the notice.

SCHEDULE I*(s. 2)***WILDLIFE AREAS****NOTE**

The most recent legal description of a particular National Wildlife Area may be found in the appropriate Statutory Order or Instrument listed below.

Part I — Nova Scotia

1. John Lusby Marsh SOR/78-408
2. Sand Pond SOR/78-408
3. Boot Island SOR/79-820
4. Wallace Bay SOR/80-417
5. Sea Wolf Island SOR/82-110
6. Chignecto SOR/82-872

Part II — New Brunswick

1. Tintamarre SOR/78-408
2. Portage Island SOR/79-820
3. Shepody SOR/80-417
4. Cape Jourimain SOR/96-246
5. Portobello Creek SOR/95-425

Part III — Quebec

1. Cap Tourmente SOR/95-425
2. Îles de Contrecoeur SOR/81-422
3. Îles de la Paix SOR/86-675
4. Lac Saint-François SOR/95-425
5. Pointe de l'Est SOR/95-425
6. Baie de l'Île-Verte SOR/85-740
7. Îles de l'estuaire SOR/86-675
8. Pointe-au-Père SOR/95-425

Part IV — Ontario

1. Big Creek SOR/78-408
2. Eleanor Island SOR/78-408
3. Mohawk Island SOR/78-408
- 3.1 Long Point SOR/84-298
4. Mississippi Lake SOR/78-408
5. St. Clair SOR/94-684
6. Wellers Bay SOR/78-642
7. Wye Marsh SOR/78-642
8. Prince Edward Point SOR/80-538
9. Scotch Bonnet Island SOR/79-820

Part V — Manitoba

1. Pope SOR/78-408
2. Rockwood SOR/78-408

Part VI — Saskatchewan

1. Bradwell SOR/78-408
2. Prairie SOR/78-408
3. Stalwart SOR/81-422
4. St. Denis SOR/89-569
5. Tway SOR/78-408
6. Webb SOR/79-820
7. Raven Island SOR/89-569
8. Last Mountain Lake SOR/89-569

Part VII — Alberta

1. Blue Quills SOR/78-408
2. Meanook SOR/80-417
3. Spiers Lake SOR/82-110

Part VIII — British Columbia

1. Alaksen SOR/78-408
2. Widgeon Valley SOR/78-408
3. Columbia SOR/89-568
4. Qualicum SOR/94-684
5. Vaseux-Bighorn SOR/79-349

Part IX — Northwest Territories

1. Polar Bear Pass SOR/86-985
2. Nirjutiqavvik SOR/89-569

Part X — Yukon Territory

1. Nisutlin River Delta SOR/95-425

The *Wildlife Area Regulations* are made pursuant to section 12 of the *Canada Wildlife Act*. The excerpts that appear above are from Chapter 1609 of the *Consolidated Regulations of Canada* as amended by:

- | | | |
|--------------------------|--------------------------|--------------------------|
| ■ SOR/78-408 (28.04.78); | ■ SOR/78-466 (23.05.78); | ■ SOR/78-578 (14.07.78); |
| ■ SOR/78-642 (10.08.78); | ■ SOR/78-890 (24.11.78); | ■ SOR/79-244 (13.03.79); |
| ■ SOR/79-349 (17.04.79); | ■ SOR/79-820 (09.11.79); | ■ SOR/80-417 (06.06.80); |
| ■ SOR/80-538 (11.07.80); | ■ SOR/81-421 (28.05.81); | ■ SOR/81-422 (28.05.81); |
| ■ SOR/82-110 (15.01.82); | ■ SOR/82-871 (23.09.82); | ■ SOR/82-872 (23.09.82); |
| ■ SOR/83-716 (22.09.83); | ■ SOR/84-298 (13.04.84); | ■ SOR/84-388 (17.05.84); |
| ■ SOR/84-705 (31.08.84); | ■ SOR/85-227 (07.03.85); | ■ SOR/85-740 (08.08.85); |
| ■ SOR/85-899 (12.09.85); | ■ SOR/86-675 (19.06.86); | ■ SOR/86-859 (14.08.86); |
| ■ SOR/86-985 (18.09.86); | ■ SOR/88-264 (05.05.88); | ■ SOR/89-568 (07.12.89); |
| ■ SOR/89-569 (07.12.89); | ■ SOR/91-480 (14.08.91); | ■ SOR/94-450 (16.06.94); |
| ■ SOR/94-527 (03.08.94); | ■ SOR/94-594 (13.09.94); | ■ SOR/94-684 (07.11.94); |
| ■ SOR/95-78 (31.01.95); | ■ SOR/95-354 (26.07.95); | ■ SOR/95-425 (30.08.95); |
| ■ SOR/96-246 (30.04.96); | ■ SOR/96-442 (17.09.96). | |

Cree-Naskapi Land Registry Regulations

(*Cree-Naskapi (of Québec) Act*)

Excerpts from
SOR/86-1070 (06.11.86)
As amended

REGULATIONS RESPECTING THE ESTABLISHMENT AND MAINTENANCE OF A LAND REGISTRY SYSTEM FOR THE REGISTRATION OF RIGHTS AND INTERESTS IN CATEGORY IA AND IA-N CREE- NASKAPI LAND AND IN BUILDINGS SITUATED THEREON

Short Title

1. These Regulations may be cited as the Cree-Naskapi Land Registry Regulations.

Interpretation

2. In these Regulations,

"Act" means the *Cree-Naskapi (of Québec) Act*;

"block" means a portion of a lot as determined pursuant to subsection 17(2);

"central land registrar" means the central land registrar appointed pursuant to section 6;

"central land registry office" means the central land registry office referred to in paragraph 4(1)(a);

"CRINA number" means the numerical identification assigned by the central land registrar, of a right or interest in Category IA or IA-N land of a band or in buildings situated thereon and the location of the right or interest that consists of groups of numbers separated by hyphens and in the following order:

(a) the numbers that represent the band on whose Category IA or IA-N land the right or interest is located,

(b) the numbers that represent the lot on which the right or interest is located,

(c) the numbers that represent the block on which the right or interest is located, and

(d) the numbers that represent the right or interest and in the case of a right or interest in a building, the letter "B" and the numbers that represent the building;

"index books" means the books referred to in section 16;

"land registry office" means a local land registry office or the central land registry office;

"land registry plan" means a plan referred to in section 17;

"local land registrar" means a local land registrar appointed pursuant to subsection 9(1);

"local land registry office" means a local land registry office referred to in paragraph 4(1)(b) or (c);

"lot" means a portion of Category IA or IA-N land as set out in a survey by the Quebec Department of Energy and Resources;

"Minister" means the Minister of Indian Affairs and Northern Development;

"registrar" means a local land registrar or the central land registrar;

PART I

Establishment of the Land Registry System

3. A land registry system, under the control and supervision of the Minister, is hereby established for the registration of rights and interests in Category IA and IA-N land and in buildings situated thereon.

4. (1) The land registry system established pursuant to Section 3 shall consist of the following registry offices:

(a) a central land registry office;

(b) one local land registry office for each Cree band; and

(c) a local land registry office for the Naskapi band.

(2) The central land registry office shall be located within the territory of the Quebec Urban Community.

(3) The local land registry office for a band shall be located at the head office of the band except where the band fixes the location of its local land registry office at another place on its Category IA or IA-N land.

PART II

Administration of the Land Registry System

6. The land registry system established pursuant to section 3 shall be under the administration of the central land registrar appointed by the Minister on a full-time or part-time basis.

Central Land Registrar

7. The central land registrar shall
- (a) administer the central land registry office;
 - (b) coordinate the functions of the local land registry offices;
 - (c) arrange for and assist in the preparation of land registry plans and deposit certified copies of any land registry plan made pursuant to section 17 in the appropriate local land registry office and in the central land registry office;
 - (g) assist Cree and Naskapi beneficiaries in the preparation of land descriptions and in the preparation and registration, or deposit, of any documents to be registered, or deposited, in accordance with the Act or these Regulations; and

Deputy Central Land Registrar

8. (1) The central land registrar shall be assisted by a deputy central land registrar appointed by the Minister on a full-time or part-time basis.

(2) Where the central land registrar is absent or incapacitated or the office of the central land registrar is vacant, the deputy land registrar shall have and may exercise all the powers and duties of the central land registrar.

Local Land Registrars

9. (1) The local land registry office for a band shall be administered by a local land registrar appointed by the band.

10. A local land registrar shall, in addition to the duties prescribed by the appropriate band pursuant to paragraph 41(1)(c) of the Act,

- (a) assist in the preparation of land registry plans for the Category IA or IA-N land of the band; and
- (b) assist Cree and Naskapi beneficiaries in the preparation of land descriptions and in the preparation and registration, or deposit, of any documents to be registered, or deposited, in accordance with the Act or these Regulations.

Deputy Local Land Registrar

11. (1) The local land registrar shall be assisted by at least one deputy local land registrar appointed by the band.

(3) Where a local land registrar is absent or incapacitated or the office of the local land registrar is vacant, the deputy local land registrar shall have and may exercise all the powers and duties of the local land registrar.

(4) Where, in a local land registry office, the local land registrar and the deputy local land registrar are absent or incapacitated, or the offices of the local land registrar and the deputy local land registrar are vacant, the local land registry office may be administered by the central land registrar from the central land registry office.

Index Books

16. The following index books shall be maintained at each local land registry office and at the central land registry office:

- (a) an entry book in which is recorded, in chronological order, each document that is received at the office for registration pursuant to section 21;
- (b) an index of names in which is recorded the name, in alphabetical order, of each person who is a party to a document evidencing a right or interest in Category IA or IA-N land or in buildings situated thereon that is registered at the office pursuant to these Regulations;
- (c) an index of land in which is recorded, for each block of Category IA or IA-N land, any rights or interests in that block that are registered at the office pursuant to these Regulations;
- (d) an index of buildings in which is recorded, for each building situated on Category IA or IA-N land, any rights or interests in that building that are

registered at the office pursuant to these Regulations; and

(e) a deposit index in which is recorded, in chronological order, each document referred to in section 36 that is received at the office for deposit under that section.

Land Registry Plans

17. (1) The central land registrar shall arrange for the preparation of a land registry plan for the Category IA or IA-N land of each band.

(2) A land registry plan shall show the full area of the Category IA or IA-N land of a band divided, as requested by the band, into numbered blocks based on existing land use, the natural features of the land, any land and resource use and planning by-laws made by the band pursuant to section 46 of the Act and any zoning by-law made by the band pursuant to section 47 of the Act.

(3) A land registry plan for the Category IA or IA-N land of a band shall be drawn at a scale that is appropriate to accurately and clearly

(a) identify any rights and interests in the Category IA or IA-N land shown on the plan and in the buildings situated on that land, that have been registered or deposited in the local land registry office of the band pursuant to the Act and these Regulations as of the date of the deposit of the plan in the office; and

(b) depict the location of the boundaries of the land or buildings, or both, that are the subject of the rights and interests referred to in paragraph (a).

(4) A land registry plan may consist of one or more sheets.

(5) No land registry plan shall be deposited in a land registry office unless the plan has been approved, dated and signed by the appropriate local land registrar and the central land registrar.

(6) No registrar shall approve a land registry plan unless the plan accurately and clearly

(a) identifies, by the CRINA number, any rights or interests in the Category IA or IA-N land shown on the plan or in the buildings situated on that land that are fully registered pursuant to these Regulations as of the date of the deposit of the plan; and

(b) depicts the location of the boundaries of the land or buildings or both, that are the subject of the rights and interests referred to in paragraph (a).

(7) Any rights or interests under section 114 or 115 or subsection 117(1) or (2) of the Act and any rights or interests in Category II, II-N or III land within the boundaries of Category IA or IA-N land or in buildings situated on that Category II, II-N or III land shall be identified and depicted on the appropriate land registry plan to the extent possible based on the information that is available.

(8) Where a right or interest

(a) in Category IA and IA-N land or in buildings situated thereon, other than those registered pursuant to these Regulations, or

(b) in land other than Category IA and IA-N land or in buildings situated on land other than Category IA and IA-N land, is identified and depicted on a land registry plan the identification and depiction of such a right or interest shall clearly differentiate it from a right or interest that is registered pursuant to these Regulations.

(9) For greater certainty, the identification and depiction of a right or interest pursuant to subsection (7) or (8) does not constitute registration of the right or interest pursuant to these Regulations.

(10) A copy of any land registry plan shall be maintained at the appropriate local land registry office and at the central land registry office.

Surveys of Category IA and IA-N Land

18. (1) The central land registrar may submit a request to the Minister for a survey or resurvey pursuant to Part II of the *Canada Lands Surveys Act* of all or any part of the Category IA or IA-N land of a band.

(2) The central land registrar shall consider any request from a band regarding a survey of any portion of the Category IA or IA-N land of the band.

19. Nothing in these Regulations prevents a person from arranging for a survey or resurvey of Category IA or IA-N land in accordance with Part II of the *Canada Lands Surveys Act* but the costs of such a survey or resurvey shall be the responsibility of that person.

PART III

Procedure for Registering Rights and Interests

21. A person who wishes to register a right or interest in the Category IA or IA-N land of a band or in a building situated thereon shall forward documents evidencing that right or interest to the local land registry office for the band or to the central land registry office.

Receipt of Document

22. A registrar of a land registry office shall record, in chronological order, in the entry book for the office, the following information in respect of each document received at that office pursuant to section 21,

- (a) the year, month, day and hour that the document was accepted for registration or rejected by the registrar;
- (b) the date of the document;
- (c) the name of each person who is a party to the document;
- (d) the nature of the right or interest evidenced in the document; and
- (e) the CRINA number, if any, of the right or interest evidenced in the document.

Land Registry Plan

28. A right or interest in Category IA or IA-N land or in buildings situated thereon that has been registered pursuant to these Regulations shall be identified on the appropriate land registry plan by its CRINA number and the location of the boundaries of the land or buildings, or both, that are the subject of the right or interest shall be depicted on that land registry plan.

PART IV

Fully Registered Rights and Interests

30. (1) Where the registration of a right or interest has been confirmed under subsection 25(3) and

- (a) the territorial description of the right or interest is depicted on a survey confirmed in accordance with Part II of the *Canada Lands Surveys Act*, or
- (b) the appropriate local land registrar and the central land registrar are satisfied that the boundaries of the land or buildings, or both, that

are the subject of the right or interest can be easily located on the ground,

(c) the right or interest shall be considered to be fully registered pursuant to these Regulations as of the hour the document evidencing the right or interest was accepted under subsection 24(1) and that full registration shall be noted in the appropriate index books and depicted on the relevant land registry plans.

(2) A right or interest that is fully registered pursuant to these Regulations shall be depicted on the relevant land registry plan in a manner that clearly differentiates it from any other rights or interests depicted on the plan.

(3) Subject to subsection (4), the location of the boundaries of the land or buildings, or both, that are the subject of a right or interest that is fully registered pursuant to these Regulations shall be established by reference to the depiction of the right or interest on the relevant land registry plan.

(4) The depiction of a right or interest that is fully registered pursuant to these Regulations is not subject to an appeal pursuant to section 32 except where the appropriate local land registrar and the central land registrar are satisfied that the location of the boundaries of the land or buildings, or both, that are the subject of the right or interest has been inaccurately depicted on a land registry plan.

(5) Where the appropriate local land registrar and the central land registrar are satisfied that the location of the boundaries of the land or buildings, or both, that are the subject of a fully registered right or interest has been inaccurately depicted on a land registry plan, the local land registrar shall notify the holders of any rights or interests that are affected by the inaccurate depiction and are registered pursuant to these Regulations and the registrars shall make a notation of the inaccuracy in the appropriate index books and on the relevant land registry plans.

(6) A notification to a holder pursuant to subsection (5) shall be by personal service or registered mail to the holder of the right or interest affected, at the address of the holder that is set out in the registered document evidencing the right or interest.

Provisionally Registered Rights and Interests

31. (1) Where the registration of a right or interest has been confirmed under subsection 25(3) but

(a) the territorial description of the right or interest is not depicted on a survey confirmed in accordance with Part II of the *Canada Lands Surveys Act*, or

(b) the appropriate local land registrar or the central land registrar is not satisfied that the boundaries of the land or building, or both, that are the subject of the right or interest can be easily located on the ground,

the right or interest shall be considered to be provisionally registered pursuant to these Regulations as of the hour the document evidencing the right or interest was accepted under sub section 24(1) and that provisional registration shall be noted in the appropriate index books and depicted on the relevant land registry plans.

(2) A right or interest that is provisionally registered pursuant to these Regulations shall be depicted on the relevant land registry plan in a manner that clearly differentiates it from any other rights or interests depicted on the plan and any overlap on the depiction of another right or interest shall be depicted in a manner that clearly indicates the overlap.

(3) The location of the boundaries of the land or buildings, or both, that are the subject of a right or interest that is provisionally registered pursuant to these Regulations shall be established by reference to the documents, referred to in section 2), evidencing that right or interest.

(4) Where a right or interest is provisionally registered pursuant to these Regulations and the appropriate local land registrar and central land registrar are satisfied that the boundaries thereof overlap on a right or interest that was previously fully or provisionally registered pursuant to these Regulations, the appropriate local land registrar shall notify the council of the appropriate band and the holders of any rights or interests registered pursuant to these Regulations that are affected by the overlap.

(5) A notification to a holder pursuant to subsection (4) shall be by personal service or registered mail to the holder of the right or interest affected, at the address of the holder that is set out in the registered document evidencing the right or interest.

SOR/94-369.

PART VI

Cancellation of Registration of Rights or Interest

35. (1) The registration of a right or interest in Category IA or IA-N land or in buildings situated thereon shall be cancelled where

- (a) a court orders such cancellation;
- (b) all interested parties consent, in writing, to the cancellation; or
- (c) in the opinion of the appropriate local land registrar and central land registrar, the location of the boundaries of the land or buildings, or both, that are the subject of the right or interest cannot be easily located on the ground.

(2) Where the registration of a right or interest is cancelled in accordance with subsection (1), the appropriate local land registrar and the central land registrar shall make a notation of the cancellation in the appropriate index books and reflect the cancellation on the relevant land registry plans.

PART VII

Depositary

36. (1) A land registry office shall, for the purpose of facilitating the management and administration of Category IA or IA-N land and of buildings situated thereon, provide safekeeping services for the deposit of

- (a) documents referred to in section 149 and subsection 152(1) of the Act; and
- (b) non-registrable documents including notices of expropriation.

(2) Where a document referred to in subsection (1) is received at a land registry office, a registrar of the office shall forthwith make a copy of the document and forward the copy of the document to the appropriate local land registry office or the central land registry office, as the case may be.

(3) A registrar of a land registry office shall record, in chronological order, in the deposit index for the land registry office, each document received at that land registry office for deposit under subsection (1) or (2).

Rights and Interests - Deposited Documents

37. (1) Where a right or interest in Category IA or IA-N land or a building situated thereon evidenced by a

document deposited pursuant to subsection 152(1) of the Act or under paragraph 36(1)(b) of these Regulations is identified and depicted on a land registry plan the identification and depiction of such a right or interest shall clearly differentiate it from a right or interest that is registered pursuant to these Regulations.

(2) For greater certainty, the deposit under subsection 36(1) of a document referred to in paragraph 36(1)(b) does not constitute registration pursuant to these Regulations of any right or interest evidenced by the document and the identification and depiction, on a land registry plan, of a right or interest pursuant to subsection (1) does not constitute registration of the right or interest pursuant to these Regulations.

The *Cree-Naskapi Land Registry Regulations* are made pursuant to section 151 of the *Cree-Naskapi (of Quebec) Act*. The excerpts that appear above are from SOR/86-1070 (06.11.86) as amended by:

- SOR/94-369 (26.05.94).

Dominion Water Power Regulations*(Dominion Water Power Act)*

Excerpts from
Chapter 1603, C.R.C.
As amended

**REGULATIONS RESPECTING DOMINION WATER-
POWERS***Short Title*

1. These Regulations may be cited as the *Dominion Water Power Regulations*.

Interpretation

2. In these Regulations,

"Department" means the Department of Indian, Affairs and Northern Development;

"Director" means the Director of Water-Power, who shall be the Chief of the Water Resources Division of the Department or such other person designated by the Minister;

"final construction plans" means the plans of the power development or power system as actually constructed, and in every case includes plans of the lands as finally occupied to conform with sections 10 and 17;

"general construction plans" means the plans of the works that are required to be approved by the Director before the interim licensee is permitted to commence the construction of the power development;

"general layout plans" means the plans that are required to be filed by the applicant before an interim licence may be issued;

"Minister" means the Minister of Indian Affairs and Northern Development;

"power development" includes

(a) the physical structures within the severance line required for the storage or use of the stream-waters, for the production of power therefrom, and for the transmission thereof,

(b) the dams or other diversion works, the powerhouse, the conduits conducting water thereto and the transmission lines within the severance line,

(c) all hydraulic or electrical machinery, appliances, fixtures, equipment and appurtenances,

(d) lands and rights-of-way required in connection therewith, and

(e) the clearings, roads, trails and railways required to be constructed that are still used and useful in connection therewith and not independently profitable;

"public lands" means lands belonging to Her Majesty in right of Canada and includes lands of which the Government of Canada has power to dispose;

"severance line" means the dividing or boundary line that separates those lands, works and properties used or useful in connection with the undertaking and that are considered to be essential to the power or storage development from other lands, works and properties used or useful in connection with the undertaking but not considered to be essential to the development;

"storage development" includes

(a) the physical structures within the severance line required for the storage Of the stream-waters for the production of power,

(b) the dams or other storage works, the intakes and water conduits within the severance line,

(c) all hydraulic or electrical machinery, appliances, fixtures, equipment and appurtenances,

(d) lands and rights-of-way required in connection therewith, and

(e) the clearings, roads, trails and railways required to be constructed that are still used and useful in connection therewith and not independently profitable;

"system" or "power system" means all lands, structures and appurtenances required to complete the undertaking authorized, including the power development, works, reservoirs, transmission lines, distribution works, auxiliary steam or other fuel plants, the lands required to be occupied, clearings, roads and

railways in so far as required in connection with the power development, and all mills, buildings, machines, appliances, fixtures, equipment and appurtenances required in connection therewith;

Application

3. (1) An application for a licence to divert, use or store water for power purposes may be made to the Director and shall contain the following information:

(b) the name or a clear description of the river, lake or other watercourse from which the water is to be diverted or used;

(c) the place where the water is to be diverted from or in the said watercourse, referred if possible to an established monument of the existing system of land surveys, and the place where the water is to be returned or released;

(k) or each storage reservoir, the approximate number of acres of land the applicant proposes to flood, the approximate area in acres of the surface of the reservoir when filled, the estimated vertical storage range in feet, and the total capacity of storage contemplated in acre-feet; and

(l) a reasonably accurate description and the acreage lands required for occupation or use in the construction, maintenance or operation of the proposed works, noting separately lands required for rights-of-way and lands that are to be flooded

- (i) within public lands,
- (ii) within provincial Crown lands, and
- (iii) within privately owned lands.

(2) An application for a licence shall be accompanied by

(a) a preliminary plan or sketch, with scale so selected as to show upon a single sheet the entire project applied for, with the approximate location of all the principal works and lands referred to in paragraph (1)(f);

(b) a description of and a sketch showing the nearest neighbouring works or structures completed or in course of construction, both above and below the place of the proposed diversion, for diverting or using water for any purpose from the same source of supply and the approximate distance and direction of each such works from the proposed works;

(4) Where the applicant is a municipality or municipal district, the application, in addition to the information required by subsections (1) and (2), shall contain

(a) the location, area and boundaries of the municipality or district;

(5) All elevations given in connection with the plans or other information filed by any applicant shall be referred, if feasible, to mean sea-level datum.

Survey Permit

5. (1) Subject to subsection (3), the Director may issue to an applicant a survey permit empowering the applicant during the period stated therein, which shall not exceed three years, to enter upon any public lands without other licence therefor, and upon the lands of any person for the purpose of making such surveys and investigations as may be necessary for the preparation of his general layout plans, but for no other purpose, and the applicant shall, in making such surveys and investigations, do as little damage as possible, and shall make full compensation to all persons sustaining damage.

(2) The issuance of a survey permit does not give the applicant any priority over other applicants for the development of any water-power, or any special claim or right in respect of the water-power.

(3) The applicant shall furnish such security as the Director may require for the payment of any sums that may be subsequently awarded for any damage caused by the applicant in making any surveys and investigations authorized under these Regulations.

General Layout Plans

6. (1) An applicant shall file his general layout plans with the Director by such date as is specified by the Director.

(2) The general layout plans and data shall be such as will enable the Director to determine whether

(a) the proposed works are of suitable design to accomplish the purpose intended,

(b) the proposed development is in general accord with the most beneficial utilization of the resources of the stream in Canada, and

(c) the proposed undertaking is feasible and practicable and in the public interest,

and such plans shall further conform to any requirements of the Director not inconsistent with these Regulations.

(3) The general layout plans and specifications shall

- (a) be based on actual and thorough surveys and investigations on the ground;
- (b) be in sufficient detail to enable the Director to determine exactly what is proposed to be done by the applicant;
- (c) show the position of the proposed works with reference to surrounding objects so that the exact scope of the project may be readily ascertained and located; and
- (d) show what provisions are being made for navigation, logging and other interests.

(4) When the Director is of the opinion that further information and plans are necessary before an interim licence is issued, he may request the applicant to furnish additional information and plans.

(5) Plans or maps shall in every case show the location and area of the lands that are required to be occupied, used or flooded in connection with the proposed works.

(6) Elevations wherever feasible shall be related to mean sea-level datum.

Plan of Lands

10. (1) An interim licensee shall, at a time fixed by the Director, supplement the general construction plans of the works by a plan of lands from an actual survey by a Dominion Land Surveyor acting under instructions from the Surveyor General of Canada.

(2) A plan of lands shall be certified by a Dominion Land Surveyor and shall show and describe by section, township and range or lot number if in surveyed territory, or by other: accurate description if in unsurveyed territory, the lands that are required to be occupied or used in the construction, maintenance and operation of the proposed works, noting separately,

- (a) public lands not covered by water required for main diverting works, powerhouses and other similar works;
- (b) public lands covered by water required for the purposes referred to in paragraph (a);
- (c) public lands required only to be flooded in connection with the storage or poundage of water;
- (d) public lands required only for rights-of-way for water conduits, transmission lines and other similar works;

(e) public lands, if any, required for substations, distributing stations, terminal stations and other similar buildings;

(f) provincial Crown lands; and

(g) privately owned lands.

(3) The plan of lands shall be accompanied by a statement giving, with respect to each parcel of privately owned lands, the name of

(a) the registered owner in fee thereof;

(b) any registered mortgagee or lessee; and

(c) any claimant in actual possession other than a registered owner, mortgagee or lessee.

(4) When required by the Director, the surveys and investigations required by this section shall be made by the Legal Surveys Division of the Department of Natural Resources and in such case an interim licensee shall reimburse Her Majesty for all salaries and expenses paid for such surveys upon the presentation to the interim licensee of accounts properly certified.

Approval of Plans

11. (1) The Director shall examine the general construction plans and specifications of the works and the plan of lands, and shall report thereon to the Minister.

(2) The Director shall notify the interim licensee in writing whether the plans have been approved subject to conditions, or have been rejected and the interim licence cancelled.

(3) Approval or non-approval of any plans shall neither incur the responsibility of the Crown nor relieve the interim licensee from the consequences that may result from the construction of the works, from imperfections in departmental requirements, or from the operation of the works.

Rights in Lands under Interim Licence

14. (1) Only such interim rights of entry upon or of the use or occupation of any public lands shall be acquired in virtue of any interim licence as may, in the opinion of the Minister, be necessary for the purpose of making surveys, preparing plans, constructing works and otherwise carrying out the terms of the licence, and in no case shall the rights granted by any interim licence be construed to interfere in any way with any interest in public lands previously disposed of by the Crown.

(2) From time to time, as plans and information are filed showing the extent and scope of the works and the undertaking of an interim licensee with greater precision than was possible at the time the interim licence was executed, and pending the execution of the final licence, the Minister may designate, allot, amend or limit the areas of the lands which the interim licensee is permitted to enter upon, use or occupy, and the Minister's decision is final.

(3) When the general construction plans are approved, or as nearly thereafter as is feasible, the Minister shall designate in writing the lands in respect of which the powers of expropriation conferred by the Dominion Water Power Act may be exercised, but an interim licensee shall not exercise such powers of expropriation until the lands are so designated.

Final Construction Plans

17. (1) Within 90 days after the completion of the initial development in accordance with the general construction plans or with any authorized changes therein, and within 90 days after the completion of any additional unit of the power development or of the power system, an interim licensee shall file with the Director copies of the final construction plans.

(2) The final construction plans, together with drawings and specifications accompanying them, shall show

- (a) the works as actually constructed in such detail as would be required to be given to construction contractors for the purpose of constructing the works; and
- (b) the precise areas of lands occupied as required by section 10.

Plans and Specifications

18. (1) All plans required to be filed shall be on tracing linen and cut to a uniform size of 20 by 17 or 30 by 26 inches and shall satisfy the requirements of the Director.

(2) All specifications shall be either printed or typed.

(3) All plans except the plans referred to in section 3 and all specifications shall be signed by a professional engineer of recognized standing in Canada satisfactory to the Director.

Compensation for Works and Lands

28. (1) Upon the expiry of the final licence or upon the expiry of the time fixed in the notice of termination, as the case may be, a power development shall become the property of the Crown and the Minister, or such person as he may designate in that behalf, may immediately and without further proceeding enter upon, possess, occupy, operate and control the power development.

Limited Rights in Lands

33. (1) Every licence shall be valid or effective to authorize the entry upon or use or occupation of any public lands only in such manner and to such extent and for such length of time as may be necessary for the purpose of constructing, maintaining and operating the works authorized to be constructed, maintained and operated under such licence.

(2) Where, in the opinion of the Minister, continued or further entry upon or the use or occupation of public lands in whole or in part for the purposes referred to in subsection (1) becomes unnecessary, because of their non-use or abandonment or for any other reason, the Minister shall give the licensee written notice of the contemplated withdrawal of those lands and his reasons therefor, and the lands thereupon be withdrawn in whole or in part from the operation of the licence.

34. (1) Public lands required only for the purpose of flooding those lands, whether in connection with a storage reservoir or for regulating the flow of a stream or otherwise, shall be set out in the interim or final licence separately from the lands required for other purposes, and no licence shall be valid to convey any further use of the lands than the right of flooding in such manner and to such extent and at such times as may be required for the purposes of the undertaking.

(2) Where, in the opinion of the Minister, the rights of the licensee are not thereby prejudicially interfered with, every grant of a right to flood public lands in connection with any undertaking is subject to the right of Her Majesty to grant additional liberty or privilege to any person for any purpose or in any manner to enter upon, use or occupy those lands.

35. (1) Lands forming part of the bed of any stream, the use or occupation of which is required for the site of authorized works, or for the construction or the

operation thereof, shall be set out in a licence separately from lands required for other purposes and no licence conveys and exclusive right in or to the use or occupancy of such land, or any further right than may be required from time to time for the actual construction and operation of the works.

(2) Every grant of a right to use or occupy any public lands forming part of the bed of any stream is subject to the right of Her Majesty to grant additional liberty or privilege to any person for any purpose or in any manner to enter upon, use or occupy those lands, but

- (a) the rights of the licensee shall not be prejudicially interfered with by any such grant; and
- (b) the Minister shall give the licensee notice of his intention to grant such additional liberty or privilege, and an opportunity of being heard.

36. (1) When a narrow strip only of public lands is required solely for the rights-of-way for transmission lines, for water conduits or for similar purposes, and the lands are located within the agreed upon severance line, they shall be set out in the licence separately from lands required for other purposes, and the licensee shall not acquire under any licence any rights to the use or occupation of any such lands further than, in the opinion of the Minister, are required from time to time for the purpose of constructing, maintaining and operating such transmission lines or water conduits or for otherwise carrying out the purposes specified in the licence, and every such right is subject to the right of Her Majesty to grant additional liberty may or privilege to any person for any purpose or in any manner to enter upon, use or occupy the lands; but the rights of the licensee shall not be prejudicially interfered with by any such subsequent grant, and the Minister shall give the licensee notice of his intention to make such grant and an opportunity of being heard.

(2) When the narrow strip of land referred to in subsection (1) is located outside the severance line agreed upon, the lands may be granted to the licensee by licence of occupation or in such fee as the Minister may determine but, where the undertaking or works of the licensee are taken over in pursuance of these Regulations or of the *Dominion Water Power Act*, the licensee is not entitled to receive an amount of compensation for the rights-of-way greater than the amount that would be established in accordance with paragraph 29(b).

Approval of Buildings

42. Any lands desired by a licensee for subdivision for townsite or other purposes shall be set out in the application and licence separately from lands required for other purposes connected with the undertaking, and the promotion of any such townsite is subject to the approval of the Minister and to such conditions in respect of town-planning, landscape architecture and sanitation as the Minister may impose.

Transfers

61. Lands inside the severance line used or occupied for the purposes of the undertaking shall not be alienated, sold or disposed of by the licensee without the consent of the Minister, and the alienation, sale or disposal shall be subject to such terms as the Minister may prescribe for the protection of the undertaking.

62. Whenever notice of termination or cancellation has been given to a licensee in pursuance of these Regulations, no lands whatever, whether inside or outside the severance line, used or occupied for the purposes of the undertaking shall thereafter be alienated, sold or disposed of without the consent of the Minister and the alienation, sale or disposal shall be subject to such terms as the Minister may prescribe.

The *Dominion Water Power Regulations* are made pursuant to section 15 of the *Dominion Water Power Act*. The excerpts that appear above are from Chapter 1603 of the *Consolidated Regulations of Canada*.

Canada Mining Regulations

(Federal Real Property Act and Territorial Lands Act)

Chapter 1518, C.R.C.

See page A3–55 for excerpts of these Regulations.

Canada Oil and Gas Land Regulations
(*Federal Real Property Act and Territorial Lands Act*)

Chapter 1516, C.R.C.

See page A3-69 for excerpts of these Regulations.

Federal Real Property Regulations

(*Federal Real Property Act*)

Excerpts from
SOR/92-502 (15.09.92)
As amended

REGULATIONS RESPECTING FEDERAL REAL PROPERTY

Short Title

1. These Regulations may be cited as the *Federal Real Property Regulations*.

Interpretation

2. In these Regulations,

"acquisition" means an acquisition by Her Majesty of real property, including by lease, gift, devise, acceptance of a surrender of a lease of federal real property, or acceptance of a relinquishment of an easement on federal real property, but not including an acceptance of a transfer of administration and an acceptance of a transfer of administration and control;

"Act" means the *Federal Real Property Act*;

"disposition" means a disposition by Her Majesty of federal real property, including by lease, gift, surrender of a lease in which Her Majesty is the tenant, or relinquishment of an easement where Her Majesty is the holder of the easement, but not including a transfer of administration and a transfer of administration and control.

Application

3. (1) These Regulations do not apply in respect of

- (a) expropriations of real property by Her Majesty; and
- (b) dispositions, other than by lease, if the whole of the purchase price or other consideration is not received by Her Majesty at or before completion of the disposition.

(2) Sections 7 to 10 do not apply in respect of leases, surrenders of leases and acceptances of surrenders of leases.

General Authority

4. (1) A Minister may enter into an acquisition, a disposition or an option for an acquisition or for a disposition.

(2) A Minister may, in respect of real property,

(a) give a licence or acquire a licence; or

(b) relinquish a licence of which Her Majesty is the licensee, or accept the relinquishment of a licence of which Her Majesty is the licensor.

(3) A Minister may provide utilities and other services on or from federal real property that is under the Minister's administration and may impose fees, charges and rates for those services.

Administration and Control

5. (1) A Minister may transfer to Her Majesty in right of a province, by instrument satisfactory to the Minister of Justice, the administration and control of the entire or any lesser interest of Her Majesty in any federal real property, either in perpetuity or for any lesser term.

(2) A Minister may accept on behalf of Her Majesty a transfer of the administration and control satisfactory to the Minister of Justice of the entire or any lesser interest of Her Majesty in right of a province in any real property, including such transfers made by grant, vesting order or other conveyancing instrument, either in perpetuity or for any lesser term.

Administration or Administrative Responsibility

6. (1) A Minister may

- (a) transfer the administration of any federal real property to another Minister or to an agent corporation that has the authority under any other Act of Parliament to acquire the real property;
- (b) transfer to another Minister the administrative responsibility for a licence of which Her Majesty is the licensee;
- (c) accept the transfer of the administration of any federal real property from another Minister or from an agent corporation that has the authority under any other Act of Parliament to dispose of the real property; and
- (d) accept from another Minister the transfer of the administrative responsibility for a licence of which Her Majesty is the licensee.

(1.1) A Minister shall not

- (a) make a transfer to an agent corporation under paragraph (1)(a), or
- (b) accept a transfer from an agent corporation under paragraph (1)(c)

unless the transfer is consented to in writing by the agent corporation.

(2) Every transfer and acceptance referred to in subsection (1) shall be in writing and shall be effective when it is signed by both parties and countersigned by the Minister of Justice.

SOR/93-305.

Referral of a Disposition to the Minister of Justice

9. (1) Subject to subsection (2), a Minister shall refer every disposition to the Minister of Justice for settlement and approval of the form and legal content of the Crown grant.

(2) Subsection (1) does not apply to

- (a) the Secretary of State for External Affairs, if the performance of legal services in respect of a disposition is authorized pursuant to section 4 of the *Government Contracts Regulations*; or
- (b) the Minister responsible for the Royal Canadian Mounted Police or the Minister responsible for the Canadian Security Intelligence Service, if a disposition is in respect of real property acquired for the purpose of pursuing investigations described in paragraph 8(3)(b).

(3) Where, pursuant to subsections 5(6) and 7(2) of the Act, a Crown grant is to be countersigned by the Minister of Justice, the countersignature is conclusive evidence that the Minister of Justice has settled and approved the form and legal content of the Crown grant.

Document Depository

11. (1) The Minister of Justice shall establish and operate a document depository at the Department of Justice that shall contain copies of the following instruments:

- (a) grants of federal real property, including grants by instruments referred to in paragraph 5(1)(b), subsections 5(2) and (3) and section 7 of the Act, other than letters patent, notifications, leases or grants in respect of a disposition of any real property that was the subject of an acquisition described in paragraph 8(3)(b);
- (b) transfers of administration and control of real property and acceptances of such transfers;
- (c) transfers of administration of federal real property and acceptances of such transfers; and
- (d) transfers of administrative responsibility for a licence and acceptances of such transfers.

(2) Except in the case of a disposition of real property that was the subject of an acquisition described in paragraph 8(3)(b), a copy of the instrument shall immediately be sent to the document depository by the Minister who

- (a) ceases to have the administration of any federal real property by virtue of
 - (i) a grant referred to in paragraph (1)(a),
 - (ii) a transfer of administration and control of the federal real property to Her Majesty in any right other than of Canada, or
 - (iii) a transfer of administration of the federal real property to an agent corporation;
- (b) acquires the administration of any federal real property by virtue of
 - (i) a transfer of administration and control of real property to Her Majesty and the acceptance of that transfer, or
 - (ii) a transfer of administration of the federal real property from another Minister or an agent corporation and the acceptance of the transfer; or
- (c) acquires the administrative responsibility for a licence by virtue of a transfer referred to in

paragraph (1)(d) and the acceptance of the transfer.

(3) Instruments and information may be recorded or stored in the document depository by any means.

The *Federal Real Property Regulations* are made pursuant to subsections 15(2) and 16(2) of the *Federal Real Property Act*. The excerpts that appear above are from SOR/92-502 (15.09.92) as amended by:

- SOR/93-305 (08.06.93).

Indian Mining Regulations

(Indian Act)

Excerpts from
Chapter 956, C.R.C.
As amended

REGULATIONS PROVIDING FOR THE DISPOSITION OF SURRENDERED MINERALS UNDERLYING LANDS IN INDIAN RESERVES

Short Title

1. These Regulations may be cited as the *Indian Mining Regulations*.

Interpretation

2. (1) in these Regulations,

"Act" means the *Indian Act*;

"Department" means the Department of Indian Affairs and Northern Development;

"Division Chief" means the Chief, Oil and Mineral Division of the Development Branch of the Department or any person authorized by him;

"lease" means a lease issued pursuant to section 5, 6 or 19 granting the right to explore for, develop and produce minerals within the lease area;

"lease area" means the tract of land or location described in a lease;

"lessee" means a person who holds a lease;

"minerals" means naturally occurring metallic and non-metallic minerals and rock containing such minerals, but does not include petroleum, natural gas and other petroliferous minerals or any unconsolidated minerals such as placer deposits, gravel, sand, clay, earth, ash, marl and peat;

"Minister" means the Minister of Indian Affairs and Northern Development;

"permit" means a permit issued under section 5 or 6 granting the right to explore for and develop minerals within the permit area;

"permit area" means the tract of land or location described in a permit;

"permittee" means a person who holds a permit;

"person" means a person who has attained the age of 21 years or a corporation registered or licensed in Canada or in any province thereof;

"Supervisor" means the Supervisor of Indian Minerals for the Oil and Mineral Division of the Development Branch of the Department, or any person authorized by him;

"treatment" means concentrating, smelting, refining or any similar process but does not include washing, screening, conveying, loading or other handling methods when they are not combined with treatment.

(2) For the purposes of these Regulations, "section" and "legal subdivision" have the same meanings as in Part II of the *Canada Lands Surveys Act*.

Application

3. These Regulations apply with respect to surrendered mines and minerals underlying lands in a reserve, but do not apply with respect to surrendered mines and minerals underlying lands in a reserve that is situated in the Province of British Columbia.

Compliance with Provincial Laws

4. Every permittee and every lessee shall comply with the laws of the province in which his permit area or lease area is situated where such laws relate to exploration for, or development, production, treatment and marketing of minerals and do not conflict with these Regulations.

Disposition of Mineral Rights

5. (1) The Division Chief may, by public advertisement or in such other manner as he considers advisable, invite tenders for mineral rights on such terms and conditions as he deems proper.

(2) Where tenders have been submitted in compliance with the terms and conditions set forth by the Division Chief, the Division Chief may issue a permit or lease to the person submitting the highest tender or may reject all tenders.

6. (1) Notwithstanding section 5, the Division Chief may, with the consent of the council of the band for whose use and benefit lands have been set apart and subject to such terms and conditions as the council of the band may approve, issue a permit or lease with respect to minerals underlying such lands to any person upon application therefor.

LEASES

Selection

17. Where a permittee, during the term of his permit or any extension thereof, desires to obtain a lease in respect of his permit area or any part thereof, he shall make an application in duplicate therefor to the Supervisor.

18. (1) An application for a lease referred to in section 17

- (a) shall be in a form satisfactory to the Division Chief;
- (b) shall contain a legal description in accordance with subsection (2) or (3) of the lands in respect of which a lease is desired; and
- (c) shall be accompanied by
 - (i) the fee therefor set out in the schedule payable to the Receiver General, and
 - (ii) the rental for the first year of the lease in accordance with section 24.

(2) Subject to subsection (3), lands referred to in subsection (1) shall be described by

- (a) section, legal subdivision, lot or aliquot part of a lot if such lands lie within a subdivided area; or
- (b) projected section, legal subdivision, lot or aliquot part of a lot if such lands do not lie within a subdivided area.

(3) Where the boundaries of a permit area or part thereof in respect of which a lease is desired do not correspond with a township survey or other legal survey or any projection thereof, the Division Chief

may allow the land therein to be described by means of irregular boundaries.

19. Where a permittee has made an application for a lease in accordance with sections 17 and 18 and has complied with these Regulations and with the terms and conditions of his permit, the Division Chief shall issue a lease to him.

Surveys

21. Where, in the opinion of the Division Chief, it is necessary that lands in respect of which a lease is desired be surveyed for the purpose of issuing a lease pursuant to section 19, the Division Chief may require the applicant for the lease to have the boundaries of such lands surveyed by a commissioned land surveyor acting under instructions from the Surveyor General of Canada.

22. (1) Where a lease area is not surveyed before the issuance of a lease, but is subsequently surveyed by a land surveyor acting under the instructions of the Surveyor General of Canada, the Division Chief may amend the description in the lease to conform to the description supplied by the Surveyor General of Canada.

(2) Where the description in a lease is amended under subsection (1), the Division Chief shall forward to the lessee, by registered mail, a copy of the amended description.

(3) The description of lands in a lease referred to in subsection (1) shall be deemed to have been amended on the 30th day after a copy of the amended description was forwarded to the lessee by registered mail.

Plans

43. (1) Upon the termination of his permit or extension thereof or of his lease or renewal thereof and at such other times as the Supervisor may request, a permittee or lessee, as the case may be, shall submit to the Supervisor plans and sections that show

- (a) the location of all mine workings;
- (b) the average valuable mineral content of all mine headings, backs and faces not currently being worked; and

- (c) the surface and underground plant, roads, railways, buildings and other structures or works situated in the permit area or lease area.

(2) All plans and sections submitted pursuant to subsection shall be submitted in duplicate and shall be

drawn on a scale of one inch to 100 feet or on such other scale as the Supervisor may determine.

(3) Where plans and sections submitted pursuant to subsection (1) are not satisfactory to the Supervisor, the Supervisor may require the permittee or lessee to submit further plans and sections.

The *Indian Mining Regulations* are made pursuant to section 57 of the *Indian Act*. The excerpts that appear above are from chapter 956 of the *Consolidated Regulations of Canada* as amended by:

- SOR/90-468 (27.07.90).

Indian Oil and Gas Regulations, 1995*(Indian Oil and Gas Act and Financial Administration Act)*

Excerpts from
SOR/94-753 (01.01.95)
As amended

**REGULATIONS RESPECTING THE EXPLOITATION OF
OIL AND GAS IN INDIAN LANDS***Short Title*

1. These Regulations may be cited as the *Indian Oil and Gas Regulations, 1995*.

Interpretation

2. (1) In these Regulations,

"Act" means the *Indian Oil and Gas Act*;

"band council" means the council of a band that has the use and benefit of the Indian lands that are being used or from which oil or gas is being produced;

"band member in lawful possession", in respect of land, means a member of a band who is lawfully in possession of the land within the meaning of subsection 20(1) or section 22 of the *Indian Act*;

"contract" means a permit, lease, surface rights contract, option or other disposition issued, made or granted under these Regulations or the former Regulations;

"Executive Director" means the Executive Director of Indian Oil and Gas Canada, Department of Indian Affairs and Northern Development;

"exploratory licence" means a licence to conduct exploratory work issued under section 6;

"exploratory work" includes mapping, surveying, geological, geophysical or geochemical examinations, test drilling and other investigations, conducted by air, land or water, that are related to the exploration for oil and gas;

"field" means the surface area of land that is or appears to be underlain by one or more pools and the subsurface vertically beneath that area;

"former regulations" means the *Indian Oil and Gas Regulations, C.R.C., c. 963*, or any previous regulations made under the *Indian Act* respecting dispositions of oil and gas on Indian lands;

"lease" means a lease of oil and gas rights granted under section 10 or a lease of oil and gas rights that is deemed, pursuant to section 5 of the Act, to be subject to these Regulations;

"operator" means a person who is engaged in an activity related to the exploitation of oil and gas on Indian lands, including a person who is acting on behalf of, or as an employee or agent of, a contract holder;

"permit" means a permit in respect of oil and gas rights granted under section 10 or a permit that is deemed, pursuant to section 5 of the Act, to be subject to these Regulations;

"person" means a corporation or an individual who is at least 18 years of age;

"pool" means a natural underground reservoir that appears to contain an isolated accumulation of oil or gas or both;

"pooling" means the combining of oil or gas rights for the purpose of forming a spacing unit;

"right of entry" means a right to enter and use surface land;

"right-of-way" means an easement in land, or a right to cross over land, that is granted under section 27 or that is deemed, pursuant to section 5 of the Act, to be subject to these Regulations;

"spacing unit" means an area that is designated as such by a provincial authority that is responsible for the drilling for, or production of, oil or gas on Indian lands;

"surface lease" means a right of exclusive use and occupation of land that is granted under section 27 or that is deemed, pursuant to section 5 of the Act, to be subject to these Regulations;

"surface rights contract" means a right-of-way, a surface lease or an exploratory license;

"unit" means a part of one or more pools that is within the area of a unit operation;

"unit operation" means an operation that is undertaken in accordance with a plan for combining the interests of all owners of a common source of oil or gas in a field or pool, or in a part thereof, so that the operation

may be conducted as if there were only one operator and one tract.

Delegation of Authority

3. (1) The band council may, by resolution in writing, delegate

(a) to the Executive Director, in whole or in Part, the authority to act on its behalf for the purposes of these Regulations; or

(b) to any person the authority to act on its behalf in respect of subsection 10(4), 38(2) or 47(1).

(2) The Executive Director may, in writing, delegate to an employee of Indian Oil and Gas Canada any of the powers, duties and functions of the Executive Director under these Regulations.

Contract Terms and Conditions

4. It is a condition of every contract that the operator will comply with

(a) the applicable provisions of the *Indian Act* and any applicable orders and regulations made under that Act;

(b) these Regulations and any directions made pursuant thereto; and

(c) unless otherwise agreed to by the Minister and specified in the contract, all provincial laws applicable to non-Indian lands that relate to the environment or to the exploration for, or development, treatment, conservation or equitable production of, oil and gas and that are not in conflict with the Act or these Regulations.

5. (1) Every exploratory licence is subject to rights granted

(a) under a surface lease or right-of-way; or

(b) in respect of the exploration for, or production of, minerals.

(2) Every permit and lease is subject to the right of the holder of an exploratory licence to conduct exploratory work in, or the right of another permittee or lessee to work through, the permit or lease area.

Exploratory Licence

6. (1) Every person proposes to conduct exploratory work on Indian lands, including land in a permit or lease area, shall first obtain an exploratory licence.

Granting of Permits and Leases

10. (1) The Executive Director may, with the approval of the band council and on payment of the fee set out in Schedule II, grant a permit or lease, or an option to acquire a permit or lease, in respect of oil and gas rights in Indian lands on such terms and conditions as the band council and the Executive Director jointly consider advisable.

(6) A permit, lease or option granted under subsection (1) shall include the signatures of a quorum of the band council.

Permits Rights

15. Subject to subsection 27(1), a permittee

(b) has the exclusive right to select one or more leases pursuant to section 20 on relinquishment of the permit area or a portion thereof.

Discoveries

19. Where oil or gas is discovered in a permit area in a commercial quantity, the permittee shall apply, pursuant to section 20, for one or more leases in the permit area that contains the discovery well, before the earlier of

(a) the day that is 90 days after the day of the discovery, and

(b) the commencement of the drilling of any other well in the permit area within 8 km of the discovery well.

Conversion of Permits to Leases

20. (1) Where, before the end of the term of a permit, or of any extension thereof, a permittee applies to the Executive Director for the conversion of the permit to one or more leases and sends a copy of the application to the band council, the Executive Director shall, in consultation with the band council, grant the leases applied for if the permittee has

(a) complied with the terms and conditions of the permit, these Regulations and any direction given under these Regulations; and

(b) paid the first year's lease rental and the lease fee set out in Schedule II for each lease applied for.

(2) The aggregate area of a lease granted pursuant to subsection (1) shall not exceed

(a) any portion of the permit area that is specified for lease entitlement in

(i) where permit was granted consequent to a call for tenders, the call for tenders, or

(ii) where the permit was granted consequent to a call for proposals or direct negotiations, the permit; or

(b) if no area is specified for lease entitlement as described in paragraph (a), one half of the original permit area.

(3) The area of a lease granted under subsection (1) shall

(a) be in the form of a square or rectangle;

(b) have an area that is not less than one quarter-section and not more than six sections;

(c) have a length that is not longer than twice its width; and

(d) be separated from any other lease area by a distance of not less than 1.6 km, except where lease areas are diagonally situated so as to have a common corner.

(4) The boundary of the area of a lease granted under subsection (1) shall conform to the boundaries of

(a) sections, legal subdivisions, lots or aliquot parts of lots; or

(b) if the lease is for an unsurveyed area, projected sections, legal subdivisions lots or aliquot parts of lots.

(5) Notwithstanding subsections (3) and (4), the Executive Director may grant a lease in respect of an area that does not meet the requirements set out in those subsections if

(a) the shape and boundaries of an Indian reserve are such that a lease area selected cannot meet those requirements;

(b) a call for tenders consequent to which the permit was granted provides for a lease area that does not meet those requirements; or

(c) the permit expressly provides for a lease area that does not meet those requirements.

(6) Notwithstanding subsection (3), if a deposit of crude bitumen is identified, the Executive Director may, on application by a permittee and with the approval of the band council, grant a lease with an area larger than set out in that subsection if the aggregate area of all leases applied for does not exceed the limit set out in subsection (2).

Surface Rights

27. (1) Every person who proposes to engage in any surface operations that are related to the exploitation of oil or gas on Indian lands, including an operator who operates under a permit or a lease, shall, before commencing those operations, on application to, and in the form approved by, the Executive Director,

(a) if the operations require an exclusive right to use or occupy the surface of those lands, obtain a surface lease in respect of those lands; or

(b) if the operations require an easement in, or a right to cross over, those lands, obtain a right-of-way in respect of those lands.

(2) A person who makes an application under subsection (1) shall

(a) deliver to the band council and to any band member in lawful possession of land in respect of which surface rights are required a copy of the application and a paper print of the survey plan prepared pursuant to section 40;

(c) after obtaining the approval of the band council and the consent of any band member in lawful possession of the land, deliver to the Executive Director

(iii) a sensitized polyester base film copy and four paper prints of a survey plan prepared pursuant to section 40.

(4) Upon receipt and evaluation of the material referred to in subsection (2) and on payment of the fee set out in Schedule II, in the opinion of the Executive Director, the applicant requires a surface lease or right-of-way to exercise rights under a permit or lease and the terms and conditions negotiated under paragraph (2)(b) are satisfactory, the Executive Director may grant a surface lease or right-of-way to the applicant, subject to such additional terms and conditions as may be agreed to by the Executive Director, the band council, any band member in lawful possession and the applicant.

31. Notwithstanding sections 6 and 27, with the permission of the band council and any band member

in lawful possession of the land in respect of which surface rights are required, a person may enter on that land to locate proposed facilities or conduct surveys or for any other purpose necessary for the completion of an application under that section.

Right of Entry

32. (1) Notwithstanding subsections 27(1), where an applicant

- (a) has applied for surface rights pursuant to section 27,
- (b) requests a right of entry onto the land in advance of the granting of a surface lease, and
- (c) posts security in an amount that, in the opinion of the Executive Director, is sufficient to compensate for the use of the land before the granting of the surface lease and any potential damages, the Executive Director may grant to that applicant a right of entry onto the land for such time, in such a manner and on such terms and conditions as the Executive Director may in writing specify.

Survey Plans

40. (1) Every survey plan that is required under these Regulations shall

- (a) be prepared in accordance with the requirements of the *Canada Lands Surveys Act* and any instructions issued by the Surveyor General of Canada for such surveys;
- (b) be subject to review by the Surveyor General of Canada; and
- (c) be recorded in the Canada Lands Surveys Records.

(2) If a dispute arises under a contract regarding the location of a well, facility or boundary, the Executive Director, in consultation with the band council, may in writing direct the contract holder to promptly arrange for a survey to be made.

Forms

58. The Executive Director may prescribe such forms as are necessary for the purposes of these Regulations.

The *Indian Oil and Gas Regulations, 1995* are made pursuant to section 3 of the *Indian Oil and Gas Act* and subsection 19(1) of the *Financial Administration Act*. The excerpts that appear above are from SOR/94-753 (01.01.95).

National Historic Parks General Regulations*(National Parks Act)*

Excerpts from
SOR/82-263 (26.02.82)
As amended

**GENERAL REGULATIONS RESPECTING THE
CONTROL AND MANAGEMENT OF THE NATIONAL
HISTORIC PARKS OF CANADA***Short Title*

1. These Regulations may be cited as the *National Historic Parks General Regulations*.

Interpretation

2. In these Regulations,

"fauna" means all vertebrates or invertebrates, living or dead, or parts thereof and includes the eggs or young of fauna but does not include the fossil remains of any fauna;

"flora" means any plant matter, living or dead, and includes fungi and mould but does not include the fossil remains of any flora;

"natural object" means any natural material, soil, sand, gravel, rock, mineral or other object or natural phenomenon not included within the terms "flora" and "fauna" that is located within a Park, but does not include the fossil remains of any flora or fauna;

"Park" means any area set apart as a National Historic Park in accordance with Part II of the National Parks Act;

"Superintendent" means the Superintendent of a Park;

Preservation of Property

4. (1) No person shall remove, deface, damage or destroy flora, fauna or natural objects in a Park.

(2) Notwithstanding subsection (1), a Superintendent may issue a permit to any person authorizing the person to remove, deface, damage or destroy flora, fauna or natural objects in a Park for management of the Park or scientific purposes.

(3) A permit issued by the Superintendent under subsection (2) shall specify the kind and amount of, and the location from which, flora, fauna or natural objects may be removed, defaced, damaged or destroyed, and any other conditions applicable to the permit.

Restricted Areas and Activities

12. (1) The Superintendent of a Park may designate any activity or area in the Park as restricted if, in his opinion, it is necessary to control activities or entry in such areas for the preservation, control or management of the Park.

(3) The Superintendent of a Park may, on application to him by any person, authorize that person to engage in an activity in the Park or to enter an area of the Park that has been designated as restricted pursuant to subsection (1) on such terms and conditions as the Superintendent may prescribe.

(5) No person shall engage in an activity or enter an area that has been designated as restricted pursuant to subsection (1) except in accordance with the terms and conditions prescribed by the Superintendent.

The *National Historic Parks General Regulations* are made pursuant to subsection 7(1) of the *National Parks Act* and section 3 of the *National Historic Parks Order*. The excerpts that appear above are from SOR/82-263 (26.02.82) as amended by:

- SOR/88-538 (18.10.88).
- SOR/95-255 (30.05.95).

National Historic Parks Order (*National Parks Act*)

Excerpts from
Chapter 1112, C.R.C.
as amended

LANDS SET APART AS NATIONAL HISTORIC PARKS — ORDER APPLYING CERTAIN SECTIONS OF THE NATIONAL PARKS ACT TO SUCH LANDS

Short Title

1. This Order may be cited as the *National Historic Parks Order*.

National Historic Parks

2. The lands described in the schedule, title to which is vested in Her Majesty, constitute the National Historic Parks.

Application of Act

3. The provisions of sections 5, 7 and 8 of Part I of the *National Parks Act* apply to the National Historic Parks set out in the schedule.

SCHEDULE

(s. 2)

NOTE

The most recent legal description of a particular National Historic Park may be found in the appropriate Statutory Instrument listed below.

British Columbia

Chilkoot Trail SOR/93-137
Fort Langley SOR/93-34
Fort Rod Hill C.R.C., c. 1112
Kitwanga Fort SOR/88-625

Alberta

Rocky Mountain House SOR/88-625

Saskatchewan

Batoche SOR/95-292
Fort Battleford SOR/83-281
Fort Walsh C.R.C., c. 1112
Motherwell Homestead SOR/82-14

Manitoba

Fort Prince of Wales C.R.C., c. 1112
Lower Fort Garry C.R.C., c. 1112
Riel House SOR/93-89
St. Andrew's Rectory SOR/90-188
The Forks SOR/90-188

Ontario

Bellevue House C.R.C., c. 1112
Fort George SOR/93-90
Fort Malden C.R.C., c. 1112
Fort St. Joseph SOR/82-927
Fort Wellington C.R.C., c. 1112
Woodside SOR/79-622

Quebec

Battle of the Châteauguay C.R.C., c. 1112
..... SOR/82-111
Battle of the Restigouche SOR/88-531
Cartier Bréboeuf SOR/85-173
Coteau-du-Lac SOR/82-111
Fort Chambly C.R.C., c. 1112
Fort Lennox C.R.C., c. 1112
Fort No. 1, Pointe Lévis SOR/80-912
Fort Témiscamingue SOR/85-173
Fur Trade at Lachine SOR/88-531
Louis S. St. Laurent SOR/93-34
Sir George-Étienne Cartier SOR/93-34
Sir Wilfrid Laurier House C.R.C., c. 1112
..... SOR/82-111
..... SOR/85-173

New Brunswick

Beaubear's Island C.R.C., c. 1112
Fort Beauséjour SOR/81-8
Carleton Martello Tower SOR/82-111

Nova Scotia

| | |
|------------------------------------|-----------------|
| Alexander Graham Bell | C.R.C., c. 1112 |
| Fort Anne | SOR/81-877 |
| Fortress of Louisbourg | C.R.C., c. 1112 |
| Grand Pré | SOR/85-173 |
| Grassy Island | SOR/90-188 |
| Halifax Citadel | SOR/82-111 |
| Port Royal | C.R.C., c. 1112 |
| Prince of Wales Martello Tower ... | C.R.C., c. 1112 |
| York Redoubt | SOR/93-34 |

Prince Edward Island

| | |
|---------------------------------|------------|
| Ardgowan | SOR/82-664 |
| Fort Amherst/Port La Joye | SOR/85-479 |

Newfoundland

| | |
|--------------------------|-----------------|
| Cape Spear | C.R.C., c. 1112 |
| Castle Hill | C.R.C., c. 1112 |
| L'Anse aux Meadows | SOR/92-439 |
| Port au Choix | SOR/90-188 |
| Signal Hill | C.R.C., c. 1112 |

The *National Historic Parks Order* is made pursuant to sections 9 and 10 of the *National Parks Act*. The excerpts that appear above are from chapter 1112 of the *Consolidated Regulations of Canada*, as amended by:

- | | | |
|--------------------------|--------------------------|--------------------------|
| ■ SOR/79-622 (27.08.79); | ■ SOR/80-308 (24.04.80); | ■ SOR/80-912 (27.11.80); |
| ■ SOR/81-8 (22.12.80); | ■ SOR/81-70 (16.01.81); | ■ SOR/81-877 (30.10.81); |
| ■ SOR/82-14 (21.12.81); | ■ SOR/82-111 (15.01.82); | ■ SOR/82-664 (30.06.82); |
| ■ SOR/82-927 (14.10.82); | ■ SOR/83-281 (25.03.83); | ■ SOR/85-173 (14.02.85); |
| ■ SOR/85-479 (23.05.85); | ■ SOR/86-520 (08.05.86); | ■ SOR/86-531 (18.10.88); |
| ■ SOR/88-625 (07.12.88); | ■ SOR/89-100 (09.02.89); | ■ SOR/90-188 (22.03.90); |
| ■ SOR/92-439 (20.07.92) | ■ SOR/93-34 (28.01.93); | ■ SOR/93-89 (23.02.93); |
| ■ SOR/93-90 (23.02.93); | ■ SOR/93-137 (16.03.93); | ■ SOR/94-363 (26.05.94); |
| ■ SOR/95-292 (23.06.95). | | |

National Parks Cemetery Regulations*(National Parks Act)*

Excerpts from
SOR/83-677 (24.08.83)
As amended

**REGULATIONS RESPECTING THE CONTROL AND
MANAGEMENT OF CEMETERIES IN THE NATIONAL
PARKS OF CANADA***Short Title*

1. These Regulations may be cited as the *National Parks Cemetery Regulations*.

Interpretation

2. In these Regulations,

"cemetery" means a cemetery to which these Regulations apply;

"Field Cemetery" means that part of Yoho National Park so designated and shown on a plan of survey of record in the Canada Lands Surveys Records of the Department of Energy, Mines and Resources, Ottawa, as number 20590;

"Jasper Park Cemetery" means that part of Jasper National Park so designated and shown on a plan of survey of records in the Canada Lands Surveys Records of the Department of Energy, Mines and Resources, Ottawa, as number 42900;

"park" means any National Park of Canada;

"plot" means a numbered lot shown on the plan of survey of a cemetery, containing one or more graves;

"Waterton Cemetery" means that part of Waterton Lakes National Park so designated and shown on a plan of survey of record in the Canada Lands Surveys Records of the Department of Energy, Mines and Resources, Ottawa, as number 42297.

SOR/90-32;
SOR/90-235.

Application

3. These Regulations apply to Field Cemetery, Jasper Park Cemetery and Waterton Cemetery.

SOR/90-32;
SOR/90-235.

Disposition of Plots and Graves

10. No person, other than the superintendent, shall exchange, assign or subdivide any plot or grave.

SOR/90-32;
SOR/92-675.

The *National Parks Cemetery Regulations* are made pursuant to subsection 7(1) of the *National Parks Act*. The excerpts that appear above are from SOR/83-677 (24.08.83) as amended by:

- SOR/85-576 (21.06.85).
- SOR/90-32 (27.12.89).
- SOR/90-235 (19.04.90).
- SOR/92-675 (23.11.92).

National Parks General Regulations*(National Parks Act)*

Excerpts from
SOR/78-21 3 (03.03.78)
As amended

**GENERAL REGULATIONS FOR THE CONTROL AND
MANAGEMENT OF NATIONAL PARKS***Short Title*

1. These Regulations may be cited as the *National Parks General Regulations*.

Interpretation

2. In these Regulations,

"Act" means the *National Parks Act*;

"flora" means any plant matter, living or dead, and includes fungi and mould;

"natural object" means any natural material, soil, sand, gravel, rock, mineral, fossil or other object of natural phenomenon not included within the terms flora and fauna that is located within a Park;

SOR/82-949;

SOR/88-12;

SOR/93-167;

SOR/94-267;

SOR/94-512.

*Use of Public Lands or Other Public Property
Within a Park*

3. A person may use or occupy public lands or other public property within a Park if that person does so in accordance with the Act, the regulations made thereunder and any agreement made between the Government of Canada and the Government of Canada and the province within which the Park is situated.

4. The Minister may, from time to time, arrange to have public lands in a Park surveyed or resurveyed

- (a) into lots in townsites or other subdivisions;
- (b) for any right-of-way of the type referred to in subsection 6(2) of the Act;

(c) for the purposes of schools, hospitals, churches and the entertainment of persons visiting the Park; and

(d) for the purposes of a cemetery.

Restricted and Prohibited Activities, Uses and Travel

7. (1) The Superintendent may, where it is necessary for the proper management of the Park to do so, designate certain activities, uses or entry and travel in areas in a Park as restricted or prohibited.

(4) No person shall engage in an activity or use or enter and travel in an area that has been designated as restricted or prohibited pursuant to subsection (1) otherwise than in accordance with the terms and conditions prescribed in a permit issued under subsection (5).

(3) The Superintendent may, on application to him by any person, in respect of any activity or use restricted or prohibited pursuant to subsection (1) or any entry and travel in an area that has been restricted or prohibited, pursuant to that subsection, issue to that person a permit to

(a) engage in that activity or use, or

(b) enter and travel in that area
on such terms and conditions as the Superintendent may prescribe in the permit.

SOR/82-949.

Preservation of Property

10. No person shall remove, deface, damage or destroy any flora or natural objects in a Park except in accordance with a permit issued under subsection 11(1) or 12(1).

12. (1) The Superintendent may issue a permit to any person authorizing the person to remove, deface, damage or destroy any flora or natural objects in a Park for purposes of Park management.

(2) A permit issued by the Superintendent under subsection (1) shall specify the kind and amount of and the location from which flora or natural objects may be removed, defaced, damaged or destroyed and the conditions applicable to the permit.

The *National Parks General Regulations* are made pursuant to subsection 7(1) of the *National Parks Act*. The excerpts that appear above are from SOR/78-213 (03.03.78) as amended by:

- | | | |
|--------------------------|--------------------------|--------------------------|
| ■ SOR/78-654 (22.08.78); | ■ SOR/78-915 (01.12.78); | ■ SOR/79-750 (22.10.79); |
| ■ SOR/80-128 (11.02.80); | ■ SOR/80-166 (21.02.80); | ■ SOR/80-358 (15.05.80); |
| ■ SOR/81-446 (08.06.81); | ■ SOR/81-563 (10.07.81); | ■ SOR/82-949 (22.10.82); |
| ■ SOR/83-412 (09.05.83); | ■ SOR/84-389 (17.05.84); | ■ SOR/85-423 (09.05.85); |
| ■ SOR/86-582 (29.05.86); | ■ SOR/86-705 (26.06.86); | ■ SOR/88- 12 (17.12.87); |
| ■ SOR/89-287 (01.06.89); | ■ SOR/90-235 (19.04.90); | ■ SOR/91-100 (17.01.91); |
| ■ SOR/91-142 (14.02.91); | ■ SOR/91-560 (26.09.91); | ■ SOR/92-251 (07.05.92); |
| ■ SOR/93-167 (30.03.93); | ■ SOR/94-267 (24.03.94); | ■ SOR/94-512 (19.07.94); |
| ■ SOR/95-151 (21.03.95). | | |

National Parks Lease and License of Occupation Regulations (1991)*(National Parks Act)*Excerpts from
SOR/92-25 (12.12.91)

As amended

**REGULATIONS RESPECTING LEASES AND
LICENSES OF OCCUPATION OF PUBLIC LANDS
IN NATIONAL PARKS***Short Title*

1. These Regulations may be cited as the *National Parks Lease and License of Occupation Regulations (1991)*.

Interpretation

2. (1) In these Regulations,

"Act" means the *National Parks Act*;

"resort subdivision" means an area described in an item of Schedule II;

"Town of Banff" means the area described in Part I of Schedule I;

"Town of Jasper" means the area described in Part II of Schedule I;

"visitor centre" means an area described in an item of Schedule III.

Leases

3. (1) Subject to subsection (2) and sections 4 and 14, the Minister may, for any term not exceeding 42 years and on such terms and conditions as the Minister thinks fit, grant leases of public lands

- (a) in the Town of Jasper, visitor centres and resort subdivisions for the purpose of residence;
- (b) in the Town of Jasper and visitor centres for the purposes of trade, tourism, schools, churches, hospitals and places of recreation or entertainment;
- (c) in the Town of Banff, where the public lands are to be used for the purpose of residence;
- (d) in the Town of Banff, where the public lands are to be used for the purposes of trade, tourism,

schools, churches, hospitals and places of recreation or entertainment; and

(e) outside the Town of Banff or the Town of Jasper, visitor centres and resort subdivisions for the purposes tourism, schools, churches hospitals, service stations and places for the accommodation, recreation or entertainment of visitors to the parks.

(2) No lease of public lands shall be granted

(a) until the public lands have been surveyed in accordance with the *Canada Lands Surveys Act* and unless the description of the lands in the lease is based on an official plan or plans under that Act; or

(b) unless, where the Minister so directs, the lease describes the public lands by

(i) reference to an explanatory plan approved by and in the custody of the Surveyor General, or

(ii) a metes and bounds description, or the equivalent thereof, prepared under the direction of and approved by the Surveyor General.

(3) A lease granted pursuant to subsection (1) may contain a covenant for renewal, on such conditions as the Minister thinks fit, for terms that do not exceed 21 years in the aggregate, where the initial term of the lease and the terms of all renewals do not exceed 49 years.

(7) The Minister may, with the agreement of the lessee, amend a lease of public lands.

(8) The Minister may accept the surrender of a lease of public lands.

17. The Minister may renew a lease of public lands in accordance with a covenant for renewal or perpetual renewal, as the case may be, with such amendments

as may be agreed to by the Minister and the lessee in accordance with these Regulations.

Licences of Occupation

18. (1) Subject to section 19, the Minister may, for any term not exceeding 42 years and on such terms and conditions as the Minister thinks fit, grant licences of occupation of public lands

(a) in the Town of Jasper and visitor centres for the purpose of residence;

(b) in the Town of Jasper and visitor centres for the purposes of trade, tourism, schools, churches, hospitals and places of recreation or entertainment;

(c) in the Town of Banff, where the public lands are to be used for the purpose of residence;

(d) in the Town of Banff, where the public lands are used for the purposes of trade, tourism, schools, churches, hospitals and places for recreation or entertainment; and

(e) outside the Town of Jasper or the Town of Banff, visitor centres and resort subdivisions for the purposes tourism, schools, churches hospitals, service stations and places for the accommodation, recreation or entertainment of visitors to the parks.

(12) No licence of occupation of public lands gives the licensee any leasehold estate or other estate or interest in land.

(13) The Minister may, with the agreement of the licensee, amend a license of occupation of public lands.

(14) The Minister may accept the surrender of a license of occupation.

Public Passage

19. (1) Subject to subsection (2), every lease or licence of occupation of public lands in a park granted pursuant to these Regulations is subject to a right of public passage over a strip of land 30 metres in width along the high-water mark of any lake, river or stream within those public lands.

(2) Subsection (1) does not apply in respect of leases or licences of occupation of public lands in

(a) that portion of the Town of Banff that is shown as Parcel CA on plan of survey number 63858, Canada Lands Surveys Records, Ottawa; or

(b) that portion of the Town of Jasper that is shown as Parcel CV-I on plan of survey number 63051, Canada Lands Surveys Records, Ottawa.

SCHEDULE I

(subsection 2(1))

Part I — Town of Banff

All those lands shown on plan number 72468 in the Canada Lands Surveys Records at Ottawa, a copy of which is filed at the Land Titles Office for the South Alberta Land Registration District as plan number 8911788.

Part II — Town of Jasper

Blocks 1 to 41, 101, 102, A, B, S, R1, R2, R4, R5, R7, R8, R9 and R10 and Parcels AC, AH, AJ, AK, AL, AP, AU, AW, AX, AY, AZ, BA, BB, BC, BD, CA, CD, CF, CG, CH, CK, CL, CM, CN, CO, CP, CU-1, CU-2, CV-1, CV-2, CW and J in Jasper National Park.

SOR/94-313

SCHEDULE II

(subsection 2(1))

Resort Subdivisions

| Column I | | Column II |
|----------|--|-----------------|
| Item | Area | National Park |
| 1. | Villa Block 1, Lots 1 to 8, Villa Block 2, Lots 1 to 5, Villa Block 8, Lots 1 to 6 and Villa Blocks 9, 10, 12, 14, 16, 20, 22 and 23 | Jasper |
| 2. | Blocks 4, 5, 6 and 7 | Wood Buffalo |
| 3. | Ranges 1, 2 and 3 in the vicinity of Prospect Point | Prince Albert |
| 4. | Blocks 1, 2 and 3 and Reserves 1 to 6 in Lakeview Subdivision | Prince Albert |
| 5. | Lot 23 in Clare Beach Subdivision | Prince Albert |
| 6. | Blocks 1 to 6, 15, 17 and 18 in Clear Lake Summer Resort | Riding Mountain |

SCHEDULE III
(subsection 2(1))

Visitor Centers

| Column I | Column II |
|--|-----------------|
| Item Area | National Park |
| 1. Blocks 6 to 9, lots 1 to 10 and 11A to 17A, and parcels A, B, BG-A, BG-B, BG-C, BG-D, BH, BK, BM, BM-A, BM-B, BN, BN-1, BO, BO-1, C, CF, CG, CG-2, CG-3, CG-4, CG-5, CG-6, CK-1, CL-1, D, E, EB, EE and F | Banff |
| 2. Blocks 1 to 5, 26 to 31, 35, 39 to 43 and 45, Lots 2 and 3 and Parcels U148 and U149 in Waterton Lakes | Waterton Lakes |
| 3. Blocks 1 to 14 and Parcels AN, AP and AQ-A in Field | Yoho |
| 4. Lots 1 to 14 and 149 and Parcels A, B, C and D in Radium Hot Springs | Kootenay |
| 5. Blocks 1 to 10 and SX, Lots A to K and U, Parcels K, L, M, O, P, Q, R, S, T, U, V and W in Waskesiu and Lots A to H in Lakeview Subdivision | Prince Albert |
| 6. Blocks 1 to 63 and Block S in Wasagamung | Riding Mountain |

The *National Parks Lease and License of Occupation Regulations (1991)* are made pursuant to subsection 7(1) of the *National Parks Act*. The excerpts that appear above are from SOR/92-25 (12.12.91) as amended by:

- SOR/94-313 (21.04.94).

Northwest Territories Waters Regulations*(Northwest Territories Waters Act)*

Excerpts from
SOR/93-303 (15.06.93)
As amended

**REGULATIONS RESPECTING INLAND WATER
RESOURCES IN THE NORTHWEST TERRITORIES***Short Title*

1. These Regulations may be cited as the *Northwest Territories Waters Regulations*.

Interpretation

2. (1) In these Regulations,
"Act" means the *Northwest Territories Waters Act*;

Water Management Areas

3. The geographical areas of the Northwest Territories set out in Schedule I are established as water management areas.

Application

4. These Regulations apply in respect of the water management areas established under section 3.

Application for Expropriation

13. An application under section 31 of the Act shall include

(a) a legal description of the lands or interest in respect of which the application is made and the name and address of the owner of every registered interest therein; and

SCHEDULE I
*(s. 3)**Water Management Areas*

1. Great Slave Lake and all waters and river basins draining into Great Slave Lake
2. Great Bear Lake, all waters and river basins draining into Great Bear Lake, the Great Bear River and its tributaries and all the river basins of the Great Bear River and its tributaries
3. The Mackenzie River, its tributaries and all river basins of the Mackenzie River and its tributaries
4. All the islands in James Bay, Hudson Bay, Ungava Bay and Hudson Strait and all the Arctic Islands except Baffin Island
5. Baffin Island
6. All waters and river basins of the mainland draining into Hudson Bay or Foxe Basin
7. All other waters and river basins draining into the Arctic Ocean or adjacent waters

The *Northwest Territories Waters Regulations* are made pursuant to section 33 of the *Northwest Territories Waters Act*. The excerpts that appear above are from SOR/93-303 (15.06.93).

Canada Mining Regulations
(*Territorial Lands Act and Federal Real Property Act*)

Excerpts from
Chapter 1516, C.R.C.
As amended

**REGULATIONS RESPECTING THE ADMINISTRATION
AND DISPOSITION OF MINERALS BELONGING TO
HER MAJESTY IN RIGHT OF CANADA UNDER ALL
LANDS FORMING PART OF THE NORTHWEST
TERRITORIES**

Short Title

1. These Regulations may be cited as the *Canada Mining Regulations*.

Interpretation

2. In these Regulations

"adjacent claims" means claims that are contiguous or are intended by the locator to be contiguous;

"authorized officer" means any person authorized by the Minister to perform any function related to the administration and enforcement of these Regulations;

"Chief" means the Director, Mining Management and Infrastructure, of the Natural Resources and Economic Development Branch of the Department of Indian Affairs and Northern Development;

"claim" means a plot of land located or acquired in the manner prescribed by these Regulations;

"claim inspector" means a person designated as a claim inspector pursuant to section 4;

"Department" means the Department of Indian Affairs and Northern Development;

"Deputy Mining Recorder" means a person designated as a Deputy Mining Recorder pursuant to section 4;

"exploratory work" means any work done for the purpose of determining the economic potential of a permit area;

"identification tag" means a tag used to mark a corner of a claim and made of a substance and of a size approved by the Minister and issued as one of a set of four by the Mining Recorder;

"lease" means a lease of a recorded claim granted to the holder of the claim pursuant to section 58;

"legal post" means a post, tree, mound of earth or stone used for making a claim in accordance with section 14;

"lessee" means a person in whose name a lease of a claim is granted under these Regulations;

"licence" means licence to prospect issued under section 8;

"licensee" means a person who holds a licence;

"locate" means to mark out a claim in accordance with these Regulations;

"locator" means a licensee who locates a claim or for whom a claim is located;

"mine" means any work or undertaking in which minerals or ore containing minerals are removed from the earth or from talus by any method, and includes works, mills, concentrators, machinery, plant and buildings below or above ground belonging to or used in connection with the mine;

"Mineral" means precious and base metals and other naturally occurring substances that can be mined, but does not include coal, petroleum, and related hydrocarbons, native sulphur, construction stone, carving stone, limestone, soapstone, marble, gypsum, shale, clay, sand, gravel, volcanic ash, earth, soil and diatomaceous earth, ochre, marl or peat or other substances regulated by other regulations made pursuant to the *Territorial Lands Act*;

"mineral claim staking sheet" means

(a) a map of an area bounded on the north and south by 15-minute intervals of latitude and on the east and west by 30-minute intervals of longitude south of 68 degrees north latitude, or

(b) a map of an area bounded on the north and south by 15-minute intervals of latitude and on the east and west by one degree intervals of longitude north of 68 degrees north latitude;

"mining district" means an area established as a mining district by the Governor in Council pursuant to paragraph 19(g) of the *Territorial Lands Act*;

"Mining Recorder" means a person designated as a mining Recorder pursuant to section 4;

"Minister" means the Minister of Indian Affairs and Northern Development;

"permit" means a permit to prospect issued under section 29;

"permittee" means a person who holds a permit;

"recorded claim" means a claim recorded with the Mining Recorder in the manner prescribed by these Regulations;

"reduced area tag" means a tag used to mark a corner of a claim, the area of which has been reduced in accordance with section 43, and made of a substance and of a size approved by the Minister and issued as one of a set of four by the Mining Recorder;

"representation work" means work of a kind described in subsection 38(1);

"Supervising Mining Recorder" means the person designated as Supervising Mining Recorder pursuant to section 4;

"surface holder" means the lessee or registered holder of the surface rights to the land on which a mineral claim is or is proposed to be recorded;

"Surveyor" has the same meaning as "Dominion Land Surveyor" in the *Canada Lands Surveys Act*;

"Surveyor General" has the same meaning as in the *Canada Lands Surveys Act*;

"Territories" means the Northwest Territories;

"year", for the purpose of representation work, means the period between the date of the recording of a claim and the anniversary date next following, and then from year to year.

SOR/79-234;

SOR/88-9.

Application

3. (1) These Regulations apply to lands in the Territories that are vested in Her Majesty in right of Canada or of which the Government of Canada has power to dispose.

(2) These Regulations are subject to any Act governing the production, conservation and control of ores containing radioactive elements.

SOR/88-9.

Administration

4. (1) The Chief shall designate a person to be Supervising Mining Recorder and may designate persons to be engineers of mines or claim inspectors.

(2) For each mining district, the Chief shall designate a person to be Mining Recorder and may designate a person to be Deputy Mining Recorder.

SOR/79-234.

License to Prospect

7. Any individual who is 18 years of age or older and any company that is registered with the Registrar of companies pursuant to the *Companies Ordinance* of the Territories, other than an individual or company who held a licence that was revoked pursuant to subsection 10(3) within the previous 30 days, may apply for a licence.

SOR/88-9.

8. (4) No person, other than a licensee, shall

- (a) prospect for minerals;
- (b) make application to record a claim;
- (c) acquire any recorded claim or any interest therein by transfer;
- (d) submit an application for a certificate of work or a certificate of extension; or
- (e) acquire a lease of a recorded claim.

(5) No person shall locate a claim unless he is 18 years of age or older.

SOR/79-234.

10. (1) Where a licensee is required to perform representation work or exploratory work, that work may be performed by any person authorized by the licensee.

(2) Any person may locate claims on behalf of a licensee.

SOR/88-9.

Where and by Whom Claims May be Acquired

11. (1) Subject to any regulations made under the *Territorial Lands Act*, a licensee may enter, prospect for minerals and locate claims on lands other than lands

- (a) to which the *National Parks Act* applies;
- (b) used as a cemetery or burial ground;
- (c) in respect of which a claim has been recorded and has not lapsed;
- (d) the minerals in which have been granted or leased by Her Majesty;
- (e) set apart and appropriated by the Governor in Council for any purpose described in section 19 of the *Territorial Lands Act*;
- (f) the entry on which for the purpose of prospecting for minerals and locating a claim thereon is prohibited by order of the Governor in Council, subject to the terms and conditions contained in the order;
- (g) under the administration and control of the Minister of National Defence, the Minister of Energy, Mines and Resources or the Minister of Transport, unless the consent of that Minister has been obtained in writing;
- (h) the surface of which has been granted or leased by Her Majesty, unless the grantee or lessee consents thereto or an order authorizing entry thereon has been made pursuant to subsection 72(3); or

(2) Where a roadway, railway or other right-of-way is included in a recorded claim, the holder of the claim shall not have the right to enter on the right-of-way for the purpose of prospecting or development without the permission of the Mining Recorder for the district in which the claim is situated, which permission shall not be refused unless the holder has first been given the opportunity of being heard.

SOR/88-9.

Size of a Claim

12. Subject to these Regulations, a licensee or a person authorized by a licensee may, in accordance with section 13, locate mineral claims, but no such claim shall exceed 2,582.5 acres.

SOR/79-234.

How a Claim Shall be Located

13. (1) A claim shall, as nearly as possible, be rectangular, except where a boundary of any lands referred to in paragraphs 11(1)(a) to (h) is adopted as a common boundary.

(2) Subject to subsection (3), the length and width of a claim shall each, as nearly as possible, be fifteen

hundred feet or a multiple thereof, but the length of a claim shall not exceed five times its width.

(3) Any land situated between two previously located claims that contains not more than 2,582.5 acres, may be located as a claim.

(4) A claim shall be measured horizontally and its boundaries shall extend vertically downward on all sides and shall, as nearly as possible, run north, south, east and west astronomically.

SOR/79-234;

SOR/88-9.

14. (1) Subject to subsection 15(2), each corner of claim shall be marked on the ground

(a) in a treed area

(i) by a post of sound wood planted firmly in or on the ground in an upright position and standing not less than 4 feet above the ground, or

(ii) by a tree found in position and cut off not less than 4 feet above the ground,

the upper 1 foot of which has been squared so that each face of the squared portion is not less than 1 1/2 inches in width; and

(b) in a treeless area, by a post described in subparagraph (a)(i) or by a cone-shaped, well-constructed mound of earth or stone that is not less than 3 feet in diameter at the base and not less than 3 feet in height.

(2) Subject to subsections (3) and 15(2), legal posts shall be erected along the outer boundaries of a claim at intervals not more than 1,500 feet, measured horizontally, the posts being numbered consecutively in a clockwise direction, commencing at one, from the northeast corner post, and recommencing at one from each corner post thereafter.

(3) Where a boundary line crosses a body of water or any her natural obstruction or lands described in paragraph 11(1)(h), a legal post shall be placed on the boundary line on each side of the body of water, natural obstruction or lands.

(4) Where two or more claims are being located at the same time by or on behalf of the same licensee and have a common corner or common boundary, one legal post may be used to mark any common corner or common boundary point.

(5) Where wooden legal posts are used to mark a claim, there shall be fastened securely on each of the

posts marking the northeasterly, southeasterly, southwesterly and northwesterly corners an identification tag bearing a serial number and the post number namely, "NE 1" for the northeast post, "SE 2" for the southeast post, "SW 3" for the southwest post and "NW 4" for the northwest post.

(6) Where a mound of earth or stone is used as a legal post to mark a claim, the appropriate identification tag shall be inserted in a waterproof container in the apex of the mound.

(7) There shall be clearly inscribed on the identification tag marked "NE 1"

- (a) the name of the claim;
- (b) the name of the locator;
- (c) the licence number of the locator;
- (d) the name of the person actually locating the claim if that person is not the locator; and
- (e) the date, hour and minute of the placing of the legal post.

(8) There shall be clearly inscribed on each of the identification tags marked "SE 2", "SW 3" and "NW 4"

- (a) the name of the claim;
- (b) the name of the locator;
- (c) the name of the person actually locating the claim if that person is not the locator; and
- (d) the date, hour and minute or the placing of each legal post.

(9) Information that cannot be inscribed on an identification tag because of insufficient space or lack of tags shall

- (a) in the case of a wooden legal post, be plainly marked on the legal post; or
- (b) in the case of a mound of earth or stone used as a legal post, be legibly written on paper or inscribed on durable material and inserted in a waterproof container in the apex of the mound.

(10) A claim that is marked in a manner described in subsection (9) because of a lack of tags shall not be recorded by a Mining Recorder until the claim has been marked with identification tags in the manner required by these Regulations and where the claim is not so marked within the time prescribed by subsection 24(1), the claim shall not be recorded.

(11) Where a wooden legal post is used to mark the boundary of a claim, there shall be clearly inscribed on each post, other than a corner post, the

name of the claim, the appropriate number of the post and

- (a) on any north boundary post, the letters "NBP" or "BLN";
- (b) on any east boundary post, the letters "EBP" or "BLE";
- (c) on any south boundary post, the letters "SBP" or "BLS"; and
- (d) on, any west boundary post, the letters "WBP" or "BLO".

(12) Where a mound of earth or stone is used as a legal post to mark the boundary of a claim, the inscriptions referred to in subsection (11) shall be legibly written on paper or inscribed on durable material and inserted in a waterproof container in the apex of the mound.

(13) On completing the requirements of subsections (2) to (12) there shall be clearly inscribed on the identification tag marked "NE 1" the minute, hour, day, month and year at which such requirements were completed.

(14) When all corner and boundary posts have been placed and inscribed as required by this section and the time of completion is marked on the northeast corner post as required by subsection (13), the claim shall, for the purposes of these Regulations, be deemed to be located.

SOR/79-234;
SOR/88-9.

15. (1) In this section,

"reference post" means a legal post erected pursuant to subsection (4) to designate the corner of a claim previously designated by witness post;

"witness post" means a legal post erected pursuant to subsection (2) to designate the corner of a claim.

(2) Where, because of the presence of a body of water or any other natural obstruction in an area, or lands described in paragraph 11(1)(h), it is not practicable or permitted to erect one of the four legal posts required by subsection 14(1), a witness post shall be erected on each boundary line or an extension thereof as near as possible to the place where the legal post would otherwise have been erected.

(3) An identification tag shall be fastened to each witness post on which shall be clearly inscribed

- (a) the information required by section 14;
- (b) the letters "W.P."; and

(c) the distance in feet and the direction along the boundary line or its extension from the witness post to the place where the legal post would have been erected had it been practicable to do so.

(4) Where a witness post is used to mark a claim and it subsequently appears that it has become possible to mark the claim by erecting a legal post or to erect the witness post nearer to the place where a legal post would otherwise have been erected, a Mining Recorder may order the holder of the claim to erect a reference post

(a) at the place where the legal post would otherwise have been erected; or

(b) at such place nearer to the corner of the claim where the witness post would have been erected had it been practicable, to do so, as the Mining Recorder may determine.

(5) Where a reference post is erected pursuant to subsection (4), the witness post to which it relates shall not be moved.

(6) Where the holder of a claim fails to comply with an order of the Mining Recorder made pursuant to subsection (4) prior to making application for the first certificate of work, the Mining Recorder may cancel the record of the claim.

(7) Where a witness post is used to mark a claim and the Supervising Mining Recorder is satisfied that the use of the witness post was unnecessary, he may, after hearing the holder, cancel the record of the claim.

SOR/88-9.

16. (1) Before a claim is recorded, a locator shall mark or cause to be marked the boundary lines of the claim in accordance with subsection (2) so that they may be followed throughout their entire length or where it is not possible to mark the entire length, along so much of the length as it is possible to mark.

(2) The boundary lines of a claim shall be marked

(a) in treed areas, by blazing trees and cutting underbrush; and

(b) in treeless areas, by providing

(i) posts not less than 4 feet in height, or

(ii) mounds of earth or stone not less than 18 inches in height and 3 feet in diameter at the base.

17. (1) Failure on the part of a locator or a person who locates a claim on behalf of a locator to comply with the requirement of sections 13 to 16 shall not invalidate a claim if that person has

(a) in good faith tried to comply with the requirements of these sections and his failure to do so is not of a character calculated or likely to mislead other persons locating claims; and

(b) stated in his application to record the claim, where he was aware of the requirements of those sections, in what respects he was unable to comply with the requirements and the reasons therefor.

(2) A Mining Recorder may, before recording a claim, order the locator thereof to comply with any of the requirements of sections 13 to 16 that have not been complied with and where locator fails to comply with such order within the time specified therein, the Mining Recorder shall not record the claim.

18. A claim may be located on any day including a holiday.

SOR/79-234.

Identification Tags

19. (1) On payment of the applicable fee set out in Schedule 1, a Mining Recorder shall issue to a licensee applying therefor identification tags for use in marking claims in any mining district.

(2) On payment of the applicable fee set out in Schedule 1, a Mining Recorder shall issue to a licensee applying therefor reduced area tags for use in marking the corners of a reduced area, in accordance with subsection 43(2).

Removal or Alteration of Legal Posts

20. Subject to subsection 17(2) and section 21, no person shall move or destroy any legal post and no person shall remove, deface or alter any identification tag or other inscription placed on or in a legal post.

21. (1) Where, in the course of conducting any public work or carrying on any mining operation, it is necessary to move a legal post, a surveyor may, with the permission of a Mining Recorder, move the post to such place as the Mining Recorder may determine.

(2) Every surveyor who moves a legal post pursuant to subsection (1), shall inscribe

(a) in the case of a wooden legal post, on the post, or

(b) in the case of a mound of earth or stone, on paper or other durable material inserted in a waterproof container in the apex of the mound,

the distance in feet and the direction from the new location to the old location of the post.

(3) Where a legal post is moved pursuant to subsection (1), the Mining Recorder shall notify the claim holder of the location to which the post has been moved.

SOR/79-234.

22. Where the Supervising Mining Recorder is satisfied that, through no fault of the holder of a recorded claim,

(a) a legal post marking the claim has been moved or destroyed, or

(b) the information recorded on a post is illegible, he shall, at the request of the holder of the claim and after completing such inquiries as he considers necessary, and if no other holder's rights will be adversely affected, authorize the holder of the claim to erect a new post to mark the claim or place on the post a new identification tag bearing the information previously on the post, as the case may be.

SOR/88-9.

23. (1) Where, on making a survey of a recorded claim or group of recorded claims, the surveyor finds that the area exceeds that allowable under subsection 54(5), he may, with the permission of the holder or holders of the claims, establish a new legal post so that the area remaining in the claim or group of claims does not exceed that allowable under subsection 54(5).

(2) Where a new legal post is established pursuant to subsection (1), the surveyor shall notify the Mining Recorder.

(3) A surveyor who establishes a new legal post pursuant to subsection (1) shall inscribe

(a) in the case of a wooden legal post, on the post, or

(b) in the case of a mound of earth or stone used as a legal post, on paper or other durable material inserted in a waterproof container in the apex of the mound,

all the information placed in or on the post being replaced and the distance in feet and the direction from the new location to the old location of the post.

Recording

24. (1) Subject to these Regulations, every locator of a claim or a person acting on his behalf shall make application to record the claim with the Mining Recorder of the mining district within which the claim is situated within 60 days from the date of the locating of the claim.

(2) Every application to record a claim shall be made in triplicate in Form 3 of Schedule III and be accompanied by

(a) a plan showing

(i) the position of the claim in relation to permanent topographical features in the vicinity of the claim,

(ii) any adjoining claims,

(iii) the position of the legal posts by which the claim is marked, and

(iv) where witness posts are used, the reasons for using such posts where the reasons are not obvious from the plan; and

(b) the applicable fee set out in Schedule I.

(3) Where a Mining Recorder is satisfied that all the requirements of these Regulations have been complied with, he shall record the claim.

(4) The date on which the application and the fee referred to in subsection (2) are received in the office of the Mining Recorder shall be the date of recording of the claim.

(5) On recording a claim, the Mining Recorder shall endorse on the application the word "Recorded" and return one copy of the application to the person in whose name the claim is recorded at the address set out in the application.

25. When a claim has been located but has not been recorded in accordance with subsection 24(3), the area within the claim or any part thereof may be located by or on behalf of another locator.

26. (1) Where a claim under the *Yukon Quartz Mining Act* has been located in the vicinity of the Yukon-Northwest Territories Boundary and such claim or part

thereof is found by subsequent survey to be in the Territories, the holder of the claim may, on satisfying the Supervising Mining Recorder that there has been an error in locating the claim in relation to such boundary, have such claim or part thereof recorded in the proper mining district in accordance with directions issued by the Supervising Mining Recorder, and the recording of such claim or part thereof shall be effective for the purposes of these Regulations as of the time and date of its recording under the Yukon Quartz Mining Act.

(4) Where a claim lies across or appears to lie across a boundary or boundaries of adjoining mining districts, the locator may apply to have the claim recorded in the office of any one of the mining districts in which any portion of the claim is located or appears to be located.

(5) The Mining Recorder shall forward copies of any applications referred to in subsection (4), together with certified copies of all documents affecting the applications, to the office of the Mining Recorder of the other mining districts affected.

27. (1) Subject to these Regulations and to any other regulations made under section 4 or 19 of the *Territorial Lands Act*, the holder of a recorded claim has the exclusive right to prospect for minerals and develop any mine on the land enclosed within the boundaries of the claim.

(3) The holder of a recorded claim who has not been granted a surface lease or grant of the land comprised in the claim is not entitled to erect any building to be used as a dwelling or any mill, concentrator or other mine building or create any tailings or waste disposal area in connection with the commencement of production from a mine on that claim.

Permit to Prospect

29. (1) The Territories shall be divided into prospecting permit areas, in accordance with Schedule V except for the area in the vicinity of the city of Yellowknife described as follows:

COMMENCING at a point of intersection of Latitude 60°00' and Longitude 107°00', THENCE, northerly to Latitude 65°00' and Longitude 107°00', THENCE, westerly to Latitude 65°00' and Longitude 120°00', THENCE, southerly to Latitude 60°00' and Longitude 120°00', THENCE, easterly to the point of commencement.

(2) A prospecting permit area shall be based on the National Topographic System as used by the Surveys and Mapping Branch, Department of Energy, Mines and Resources, and shall contain one-quarter the area of a mineral claim staking sheet and shall be designated as the N.E., S.E., N.W. or S.W. quarter.

(10) Subject to subsection (11), where exploratory work of value will be undertaken in a prospecting permit area and the granting of a permit will not hinder other mining interests, the Chief may issue a permit, in Form 6 of Schedule III, to an applicant for the exclusive right to prospect for minerals within that area.

(11) The granting of a permit in respect of any prospecting permit area is subject to any rights previously acquired or applied for by any person in the area to which the permit applies.

SOR/79-234;
SOR/88-9.

33. (2) No person other than a permittee or a person authorized in writing by the permittee to act on his behalf may locate claims within a prospecting permit area.

(3) When a claim has been located and recorded, the area included in the claim no longer forms part of the permit area.

SOR/79-234.

Grouping

37. (1) Subject to subsection (4), the holder or holders of adjacent claims, the area of which in the aggregate does not exceed 5,165 acres, may apply in Form 7 of Schedule III, to the Mining Recorder of the district in which the claims are located to group those claims for the purpose of applying representation work.

SOR/79-234.

Representation Work

38. (1) For the purpose of these Regulations, the following undertakings in respect of a recorded claim are representation work:

(d) a survey of the claim approved by the Surveyor General; and

SOR/79-234;
SOR/88-9.

Reduced Area Claim

43. (1) The holder of a recorded claim may, before the anniversary date of the recording of the claim, make application to the Mining Recorder in the manner set out in subsection 24(2) to have the area of his claim reduced if

- (a) he is a licensee; and
- (b) a certificate of work has been issued for the claim in accordance with subsection 41(5).

(2) A reduced area referred to in subsection (1) shall be one parcel located in accordance with sections 13 to 16 except that the tags to be used shall be those referred to in subsection 19(2).

Lapses and Surrender of Claims

49. (1) Subject to section 50, where a recorded claim lapses or is cancelled, the holder of the claim at the time it lapses or is cancelled shall not

- (a) relocate or have any interest in the claim or any part thereof, or
- (b) have the claim or any part thereof recorded in his name or in the name of any corporation controlled by him

for a period of one year from the date that the claim lapsed or was cancelled.

(2) Except as otherwise provided in these Regulations, where a recorded claim lapses or is cancelled, the claim or any part thereof shall be open for relocation under these Regulations after 12 o'clock noon on the day following the first business day following the day that the claim lapsed or was cancelled.

51. (1) The holder of a recorded claim may, at any time, with the approval of the Supervising Mining Recorder surrender the claim for the purpose of relocating it by

- (a) filing with the Mining Recorder a notice of surrender in Form 12 of Schedule III; and
- (b) paying the amicable fee set out in Schedule I.

(3) Where a recorded claim is surrendered in accordance with subsection (1), the claim may not be located by or on behalf of any person other than the person surrendering the claim for a period of 7 days from the date of surrender.

(4) Where a recorded claim that is surrendered pursuant to subsection (1) is relocated by the person surrendering the claim within the time referred to in subsection (3), the claim shall, for the purposes of these Regulations, be deemed to be the same as the claim surrendered except for the location of the boundaries thereof.

Disputes

52. (1) In the case of a dispute as to entitlement to a claim, the person entitled to the claim shall be,

- (a) in the case of a claim recorded in accordance with subsection 26(1), the person who first located the claim in accordance with the *Yukon Quartz Mining Act*; and
- (b) in the case of any other claim, the person who first located the claim in accordance with these Regulations.

53. (1) Where a notice of protest is filed with a Mining Recorder pursuant to subsection 28(1) or section 56, the Mining Recorder shall

- (a) send a copy thereof, by registered mail, to the holder of claim;
- (b) investigate the allegations contained in the notice of protest;
- (c) make a report of the allegations to the Supervising Mining Recorder; and
- (d) send copies of the report made under paragraph (c) to each of the parties to the dispute.

(2) Where, in the opinion of the Mining Recorder the circumstances so require, he may, before investigating the allegations contained in a notice of protest,

- (a) require the person filing the notice to deposit with the Mining Recorder cash or other security satisfactory to the Mining Recorder in an amount fixed by the Mining Recorder; and
- (b) in the in the case of a recorded claim, the recording of which is protested by a person claiming priority in locating the claim or any part thereof, have a survey of the claim made by a surveyor.

(4) The cost of a survey of a recorded claim ordered by the Mining Recorder under subsection (2) shall be paid by such of the parties to the dispute as

- (a) the Supervising Mining Recorder orders, or
- (b) where the decision of the Supervising Mining Recorder is appealed, the Minister orders,

or may be retained from any security deposited by the person filing a notice pursuant to paragraph (2)(a).

(6) The Supervising Mining Recorder shall, after considering the report of a Mining Recorder made under subsection (1) and hearing the parties to a dispute and such evidence as they may present, give a decision on the dispute in writing and shall send a copy of the decision to each of the parties to the dispute.

SOR/89-9.

Survey

54. (1) A survey required by these Regulations shall be made in accordance with the instructions of the Surveyor General.

(2) Where a survey is required in the case of a group of adjacent recorded claims and the aggregate area, as appears in the applications to record, does not exceed 2,582.5 acres, a perimeter survey of the group of claims is acceptable as a survey for the purpose of these Regulations.

(3) Before surveying a recorded claim, the Surveyor shall examine the application to record the claim and the plan accompanying the application.

(4) In surveying a recorded claim, the Surveyor shall accurately mark the boundaries of the claim on the ground and shall examine the claim and the area surrounding it to ascertain whether it is in conflict with any other claim.

(5) Where

(a) in the case of a recorded claim located prior to November 15, 1977, the area surveyed exceeds 51.65 acres,

(b) in the case of a recorded group of claims located prior to November 15, 1977, the areas surveyed exceed the product of 51.65 acres and the number of claims in the group, or

(c) in the case of a recorded claim or a group of claims located after November 15, 1977, the area surveyed exceeds that stated in the application or applications to record,

a charge in respect of the excess area, at the rate of \$2 per acre or part thereof for each year or part thereof from the date of recording the claim, shall be imposed.

(5.1) Where the recording dates of the claims contained in a survey referred to in paragraph (5)(a) or (b) are not the same, the Mining Recorder shall determine the excess acreage charge by dividing the

total excess area of the claims contained in the survey by the number of claims in the survey and multiplying the quotient for each claim by two dollars per acre or part thereof for each year or part thereof from the date of recording.

(6) A charge required under subsection (5) or (5.1) shall be reduced by the amount of excess representation work that has been done on the claim or group of claims.

(7) A charge required under subsection (5) or (5.1) shall be paid by the holder of the claim or claims to the Mining Recorder for the district in which the claim or claims are located.

(8) Where a recorded claim or group of claims has an excess area referred to in subsection (5) or (5.1), the holder of the claim or group of claims may

(a) include the excess area in the claim or group of claims; or

(b) direct the surveyor to exclude the excess area.

(9) Where a holder of a recorded claim excludes an excess area from his claim, the excluded area shall be open for relocation on a date fixed by the Mining Recorder.

(10) A Mining Recorder shall give 30 days notice of the date fixed pursuant to subsection (9) by posting such notice in a conspicuous place in his office.

SOR/79-234.

55. (1) On completion of a survey of a recorded claim, the Surveyor shall

(a) send to the Surveyor General

(i) a copy of the field notes made by the surveyor

(ii) a plan of survey signed by the Surveyor, and

(iii) a certificate in Form 13 of Schedule III; and

(b) send to the holder of the recorded claim

(i) a copy of the plan of survey, and

(ii) a certificate in Form 13 of Schedule III.

(2) On receipt of a copy of the plan of survey of a recorded claim, the holder of the claim shall

(a) forward a notice in Form 14 of Schedule III, by registered mail, to all holders of adjacent claims at

their addresses on record with the Mining Recorder;

(b) request the Mining Recorder to post a copy of the notice in the office of the Mining Recorder for a period of twenty-one consecutive days commencing on the day the holder complies with paragraph (a); and

(c) deposit a copy of the plan of survey with the Mining Recorder.

SOR/79-234.

56. (1) A survey of a recorded claim may be protested by any person who has any interest in land that is contiguous to the claim and who alleges that such interest will be adversely affected if the plan survey is recorded pursuant to section 57

(a) at any time during the period referred to in paragraph 55(2)(b), or

(b) within 30 days thereafter

by filing with the Mining Recorder a notice of protest in Form 4 of Schedule III.

(2) Where a survey is protested pursuant to subsection (1), the protest shall be heard and determined in accordance with section 53.

(3) A plan of survey of a recorded claim shall not be recorded by the Mining Recorder until the holder of the claim has paid the applicable fee set out in Schedule I and the Mining Recorder is satisfied that

(a) the requirements of section 55 have been complied with;

(b) the plan of survey has been approved by the Surveyor General; and

(c) any charge payable pursuant to subsection 54(5) has been paid.

57. A survey of a recorded claim made in accordance with these Regulations and recorded by the Mining Recorder is conclusive evidence, for all purposes of these Regulations, of the boundaries of the claim.

Leases

58. (1) The holder of a recorded claim may apply for a lease of the claim

(a) where no certificate respecting the claim has been issued under subsection 39(1), not later than thirty days after the tenth anniversary of the recording of the claim; or

(b) where a certificate respecting the claim has been issued under subsection 39(1), not later than thirty days after the common anniversary date next following the tenth anniversary of the original recording date of the claim.

(2) The holder of a recorded claim shall be granted a lease of that claim by the Minister if

(c) a survey of the claim has been recorded with the Mining Recorder.

SOR/88-9.

59. (4) A part of the area contained in a lease may, at the time of renewal under these Regulations, be surrendered on condition that

(a) the part to be surrendered comprises one or more entire mineral claims that were recorded before the coming into force of these Regulations, or

(b) if the part to be surrendered is a mineral claim recorded after the coming into force of these Regulations or part of such a mineral claim, the area contained in the lease is reduced in accordance with section 43, and

the reduced area is surveyed in accordance with sections 54 to 57.

SOR/79-234.

Transfer of a Claim or Lease

62. (1) A claim or any interest therein may be transferred at any time to any licensee.

(5) A transfer of a recorded claim or lease or any interest in the claim or lease shall be subject to all liens or encumbrances that are registered, pursuant to subsection 63(1), against the claim or lease at the time of the registration of the transfer.

SOR/88-9.

64. (1) A transfer of a lease shall be filed with the Chief together with

(a) the applicable fee set out in Schedule 1; and

(b) the original copy of the lease.

Locating on Occupied Lands

70. (1) Where a locator wishes to enter, prospect for minerals, locate or have a claim located for him on land

that has been granted or leased to a surface holder, the locator may file with the Mining Recorder a notice in Form 19 of Schedule III of his intention to locate, or have located for him, a claim on the land or part thereof described in the notice.

Prohibitions and Reservations

75. (1) Nothing contained in these Regulations shall be construed so as to limit the right of Her Majesty or of the Commissioner of the Territories to construct and maintain roads or other public works on or over the land comprised in any recorded claim.

(2) The Chief may grant authority to any person to lay out rights of way for electrical transmission or telecommunication lines across, through, along, over or under any mining property acquired under these Regulations together with full right to enter upon the property or such portion thereof as the Chief deems necessary for the construction, maintenance and repair of such lines.

Transitional

85. (1) In this section, "prior claim" means any mineral claim acquired before November 15, 1977 under

- (a) the *Northwest Territories Quartz Mining Regulations*,
- (b) the *Northwest Territories Placer Mining Regulations*, or
- (c) the *Canada Mining Regulations* made by Order in Council P.C. 1960-717 of May 26, 1960,

and in good standing on November 15, 1977.

(2) Subsections 27(2) and 58(1) do not apply to prior claims.

SOR/88-9.

86. (1) In this section, "prior lease" means any lease issued before November 15, 1977 under

- (a) the *Northwest Territories Quartz Mining Regulations*,
- (b) the *Northwest Territories Placer Mining Regulations*, or
- (c) the *Canada Mining Regulations* made by Order in Council P.C. 1960-717 of May 26, 1960,

and in good standing on November 15, 1977 and includes a prior claim as defined in section 85 in respect of which a lease has been issued under these

Regulations or the *Canada Mining Regulations* made by Order in Council P.C. 1961-325 of March 3, 1961.

(2) Nothing in these Regulations shall be construed as prejudicing the rights of holders of prior leases or prior claims.

(3) Subsections 59(2) and 60(2) do not apply to prior leases.

(4) Notwithstanding anything contained in these Regulations but subject to subsections (5) and (6), on the expiration of the term of a prior lease the holder of the lease may apply to the Minister for a renewal of the lease for a further term of 21 years and the Minister may, if the holder of the lease has complied with the terms and conditions of the lease, grant the renewal of the lease.

(5) On the renewal of a prior lease under subsection (4), the renewed lease is subject in all respects to these Regulations, other than to subsection 60(2), as if the lease has been renewed under subsection 59(2).

SOR/78-813;

SOR/88-9.

87. (1) Subject to sections 85 and 86, all licences, mineral claims and leases issued or granted prior to November 15, 1977 and in good standing on November 15, 1977 shall be deemed to have been issued or granted under these Regulations.

(2) Notwithstanding subsections 24(1) and (3) and section 25, but subject to subsection (3), a claim recorded prior to the coming into force of these Regulations shall be deemed to be recorded under section 24 if the holder of the claim complies or agrees to comply with section 38 and thereafter all provisions of these Regulations shall apply to such claim.

(3) A claim deemed to be recorded under subsection (2) is subject to the rights of any recorded owner or any person entitled to record a claim in the area covered by the claim.

SOR/79-234.

88. Any person who has staked a claim or claims in accordance with the former regulations or as nearly thereto as circumstances would permit, and has submitted an application to record his claim within the time prescribed by such regulations, but whose claim has not been recorded, may have his claim recorded pursuant to these Regulations if

- (a) he satisfies the Mining Recorder that
- (i) a *bona fide* attempt was made to comply with the former regulations, and
 - (ii) the failure to observe any of the requirements therein prescribed was not of such a character as to mislead other persons; and
- (b) he complies, within a reasonable time, with such requirements of these Regulations as the Mining Recorder deems necessary.
-

SCHEDULE II
(ss. 31 and 41)

EXPLORATORY AND REPRESENTATION WORK

The following Schedule sets out the value of exploratory work and representation work and the information required to be submitted in relation to that work.

*Surveys, Road and Airstrip Construction and
Other Exploratory Work*

7. (1) Value

The value of a legal survey, location survey, road and airstrip construction, and the value of other exploratory work approved by an engineer of mines, shall be the actual cost of such survey, construction or work incurred within the Territories and verified by certified statements of proper accounting records and other material that, in the opinion of the engineer of mines, is necessary to determine the actual cost.

SOR/79-234.

SCHEDULE III

(s. 55)

Form 13



Indian and Northern Affairs Canada Affaires indiennes et du Nord Canada

SURVEYOR'S CERTIFICATE - CERTIFICAT DE L'ARPENTEUR

Form 13 - Formule 13

Name - Nom

Address - Adresse

Mineral Claim - Claim minier

Tag No. - N° de plaque

I have carefully examined the ground included in the above mentioned Mineral Claim surveyed by me, and have otherwise made all reasonable investigation in my power to ascertain if there was any other existing claim conflicting therewith, and I certify that I have found no trace or indication and have no knowledge or information of any such claim except as follows:
(If none, so state, if any, give particulars)

J'ai étudié minutieusement le terrain compris dans le claim minier mentionné ci-haut, après l'avoir arpenté, et que j'ai fait toutes les enquêtes qu'il m'était possible de faire pour m'assurer qu'il n'existait aucun autre claim pouvant entrer en conflit avec le présent claim et je certifie que je n'ai trouvé aucune trace ou indication et que je n'ai aucune connaissance ou renseignement concernant un tel claim sauf ce qui suit:
(Si un tel claim n'existe pas, le déclarer, s'il existe, donner des détails)

Dated at
Fait à

this
ce

day of
jour de

19

SCHEDULE III

(s. 55)

Form 14



Indian and Northern Affairs Affaires indiennes et du Nord

NOTICE OF SURVEY - AVIS D'ARPENTAGE

Form 14 - Formule 14

Submit in duplicate - En double exemplaire

Mineral Claim - Claim minier

Tag No. - N° de plaque

Mining District - District minier

Location - Emplacement

Take notice that a survey has been made of the above mineral claim under instructions from the Surveyor General, and that at the termination of 30 days following the completion of posting of this notice, the said survey may be approved and recorded, unless in the meantime it is protested, as provided in Section 56 of the Canada Mining Regulations.

Veillez prendre note qu'un arpentage du claim minier mentionné ci-haut a été effectué selon les instructions de l'arpenteur en chef et que, 30 jours après la mise à la poste de cet avis, cet arpentage peut être approuvé et enregistré, à moins qu'il n'ait été contesté entre-temps, conformément à l'article 56 du Règlement sur l'exploitation minière au Canada.

Dated this
Fait leday of
jour de

19

IAND 52-98 (5-77)

Holder - Le détenteur

The *Canada Mining Regulations* are made pursuant to section 8 of the *Territorial Lands Act* and subsection 16(2) of the *Federal Real Property Act*. The excerpts that appear above are from chapter 1516 of the *Consolidated Regulations of Canada*, as amended by:

- SOR/78-813 (27.10.78).
- SOR/79-234 (06.03.79).
- SOR/88-9 (17.12.87).
- SOR/92-552 (17.09.92).

Canada Oil and Gas Land Regulations
(*Territorial Lands Act and Federal Real Property Act*)

Excerpts from
Chapter 1518, C.R.C.
As amended

**REGULATIONS RESPECTING THE ADMINISTRATION
AND DISPOSITION OF OIL AND GAS BELONGING TO
HER MAJESTY IN RIGHT OF CANADA UNDER ALL
LANDS FORMING PART OF CANADA BUT NOT
WITHIN ANY PROVINCE**

Short Title

1. These Regulations may be cited as the *Canada Oil and Gas Land Regulations*.

Interpretation

2. (1) In these Regulations

"Canada lands" means

(a) territorial lands as defined in the *Territorial Lands Act*, and

(b) public lands as defined in the *Public Lands Grants Act* for the sale, lease or other disposition of which there is no provision in the law,

and includes land under water;

"Chief" means the administrator of the Canada Oil and Gas Lands Administration of the Department Energy, Mines and Resources and of the Department Indian Affairs and Northern Development;

"Crown reserve lands" means Canada lands in respect of which no interest granted or issued by or pursuant to these Regulations is in force and includes the submerged lands described in Schedule IV;

"Department" means,

(a) in respect of Canada lands located in that part of Canada described in Schedule VI, the Department of Indian Affairs and Northern Development, and

(b) in respect of Canada lands other than those lands located in that part of Canada described in Schedule VI, the Department of Energy, Mines and Resources;

"development well" means a well

(a) drilled pursuant to an order made under section 93, or

(b) the location of which is, in the opinion of the Chief, so related to the location of producible wells that there is every probability that it will produce from the same pool as the producible wells;

"development structure" means any structure, facility or undertaking erected for the purpose of drilling an exploratory well or a development well or erected for the production, gathering, storing, processing, transmission or other handling of oil and gas;

"exploration agreement" means an exploration agreement entered into by the Minister or a person designated by the Minister pursuant to section 30;

"exploratory well" means any well that is not a development well;

"exploratory work" includes test drilling, aerial mapping, surveying, bulldozing, geological, geophysical and geochemical examinations and other investigations relating to the subsurface geology and all work, including the construction and maintenance of those facilities necessarily connected therewith and the building and maintenance of airstrips and roads required for the supply of or access to exploratory operations;

"gas" means natural gas and includes all other minerals or constituents produced in association therewith, other than oil, whether in solid, liquid or gaseous form;

"holder" means, in relation to any interest granted or issued under these Regulations, the person or persons registered as holder or holders of the interest;

"interest" includes an exploration agreement;

"legal survey" means a survey referred to in section 10;

"lessee" means a person holding an oil and gas lease;

"licence" means an exploratory licence issued pursuant to section 24;

"licensee" means a person holding a licence;

"Minister" means,

- (a) in respect of Canada lands located in that part of Canada described in Schedule VI, the Minister of Indian Affairs and Northern Development, and
- (b) in respect of Canada lands other than those lands located in that part of Canada described in Schedule VI, the Minister of Energy, Mines and Resources;

"monument" means a post, stake, peg, mound, pit, trench or other device used to mark a boundary or the location of a well as set out in a plan of survey approved pursuant to section 11;

"offshore" means with respect to a drill site, a location within a water covered area of Canada lands;

"oil" means

- (a) crude petroleum and other hydrocarbons regardless of gravity that are produced at a well head in liquid form by ordinary production methods,
- (b) any hydrocarbons except coal and gas, that may be extracted or recovered from surface or subsurface deposits of oil sand, bitumen, bituminous sand, oil shale or other deposits, and
- (c) any other hydrocarbons except coal and gas;

"oil and gas lease" means an oil and gas lease granted pursuant to section 54 or 57;

"permit" means an exploratory permit issued pursuant to section 30 or 32 or renewed pursuant to section 40, those sections read before August 3, 1977;

"permittee" means a person holding a permit;

"significant discovery" means a discovery of oil or gas that justifies the drilling of any well or wells in addition to the well or wells in which the discovery was made;

"Surveyor General" means the person designated as Surveyor General under the *Canada Lands Surveys Act*;

"well" means any opening in the ground that is not a seismic shot hole and that is made, or is in the process of being made, by drilling, boring or any other method,

- (a) through which oil or gas could be obtained, for the purpose of searching for or obtaining oil or gas,
- (b) for the purpose of obtaining water to inject into an underground formation,
- (c) for the purpose of injecting gas, air, water or other substance into an underground formation, or
- (d) for any purpose through sedimentary rocks to a depth of at least 500 feet.

SOR/80-590;

SOR/82-663.

Application

3. These Regulations apply only to Canada lands that are under the control, management and administration of the Minister.

Land Division

4. For the purposes of these Regulations, Canada lands shall be divided into grid areas.

5. (1) A grid area, the whole or greater part of which lies south of latitude 70°, shall be bounded on the east and west sides by successive meridians of longitude of the series 50°00'00", 50°15'00", 50°30'00", which series may be extended as required, and on the north and south sides by straight lines joining the points of intersection of the east and west boundaries with successive parallels of latitude of the series 40°10'00", 40°00'00", 40°20'00", which series may be extended as required.

(2) A grid area, the whole of which lies north of latitude 70°, shall be bounded on the east and west sides by successive meridians of longitude of the series 50°00'00", 50°30'00", 51°00'00", which series may be extended as required and on the north and south sides by straight lines joining the points of intersection of the east and west boundaries with successive parallels of latitude of the series 70°00'00", 70°10'00", 70°20'00", which series may be extended as required.

(3) Every grid area shall be referred to by the latitude and longitude of the northeast corner of that grid area.

6. (1) Between latitudes 40° and 60° and between latitudes 70° and 75° the boundary

(a) between the north and south halves of a grid area is the north boundary of sections 5, 15, 25, 35, 45, 55, 65, 75, 85 and 95; and

(b) between the east and west halves of a grid area is the west boundary of sections 41 to 50.

(2) Between latitudes 60° and 68° and between latitudes 75° and 78° the boundary

(a) between the north and south halves of a grid area is the north boundary of sections 5, 15, 25, 35, 45, 55, 65 and 75; and

(b) between the east and west halves of a grid area is the west boundary of sections 31 to 40.

(3) Between latitudes 68° and 70° and between latitudes 78° and 85° the boundary

(a) between the north and south halves of a grid area is the north boundary of sections 5, 15, 25, 35, 45 and 55; and

(b) between the east and west halves of a grid area is the west boundary of sections 21 to 30.

7. (1) Every grid area shall be divided into sections.

(2) A section shall be bounded on the east and west sides by meridians spaced,

(a) in the case of a section within a grid area, the whole or greater part of which lies between latitudes 40° and 60° or between latitudes 70° and 75°, at intervals of one-tenth of the interval between the east and west boundaries of the grid area;

(b) in the case of a section within a grid area, the whole or greater part of which lies between latitudes 60° and 68° or between latitudes 75° and 78°, at intervals of one-eighth of the interval between the east and west boundaries of the grid area; and

(c) in the case of a section within a grid area, the whole or greater part of which lies between latitudes 68° and 70° or between latitudes 78° and 85°, at intervals of one-sixth of the interval between the east and west boundaries of the grid area.

(3) A section shall be bounded on the north and south sides by straight lines drawn parallel to the north and south boundaries of the grid area and spaced at intervals of one-tenth of the interval between the north and south boundaries of the grid area.

(4) A section shall be identified by the number to which it corresponds,

(a) in the case of a grid area described in paragraph (2)(a), as follows:

| | | | | | | | | | |
|-----|----|----|----|----|----|----|----|----|----|
| 100 | 90 | 80 | 70 | 60 | 50 | 40 | 30 | 20 | 10 |
| | | | | | 49 | | | | |
| | | | | | 48 | | | | |
| | | | | | 47 | | | | |
| | | | | | 46 | | | | |
| 95 | 85 | 75 | 65 | 55 | 45 | 35 | 25 | 15 | 5 |
| | | | | | 44 | | | | |
| | | | | | 43 | | | | |
| | | | | | 42 | | | | |
| 91 | 81 | 71 | 61 | 51 | 41 | 31 | 21 | 11 | 1 |

(b) in the case of a grid area described in paragraph (2)(b), as follows:

| | | | | | | | |
|----|----|----|----|----|----|----|----|
| 80 | 70 | 60 | 50 | 40 | 30 | 20 | 10 |
| | | | | 39 | | | |
| | | | | 38 | | | |
| | | | | 37 | | | |
| | | | | 36 | | | |
| 75 | 65 | 55 | 45 | 35 | 25 | 15 | 5 |
| | | | | 34 | | | |
| | | | | 33 | | | |
| | | | | 32 | | | |
| 71 | 61 | 51 | 41 | 31 | 21 | 11 | 1 |

(c) in the case of a grid area described in paragraph (2)(c), as follows:

| | | | | | |
|----|----|----|----|----|----|
| 60 | 50 | 40 | 30 | 20 | 10 |
| | | | 29 | | |
| | | | 28 | | |
| | | | 27 | | |
| | | | 26 | | |
| 55 | 45 | 35 | 25 | 15 | 5 |
| | | | 24 | | |
| | | | 23 | | |
| | | | 22 | | |
| 51 | 41 | 31 | 21 | 11 | 1 |

8. (1) Every section shall be divided into units.

(2) Every unit shall be bounded on the east and west sides by meridians spaced at intervals of one-quarter of the interval between the east and west boundaries of the section.

(3) Every unit shall be bounded on the north and south sides by straight lines drawn parallel to the north and south boundaries of the section and spaced at intervals of one-quarter of the interval between the north and south boundaries of the section.

(4) Every unit shall be identified by the letter to which it corresponds in the following diagram:

| | | | |
|---|---|---|---|
| M | N | O | P |
| L | K | J | I |
| E | F | G | H |
| D | C | B | A |

9. All latitudes and longitudes used in these Regulations shall be referred to the North American Datum of 1927.

SOR/80-590.

Surveys

10. (1) Subject to these Regulations, the provisions of the *Canada Lands Surveys Act* apply to any legal survey made pursuant to these Regulations.

(2) No person shall make a legal survey of Canada lands other than a Canada Lands Surveyor.

(3) A Canada Lands Surveyor may enter upon a permit area, lease area or development structure for the purpose of making a legal survey or other positional surveys if he gives prior written notice to the Chief.

(4) The lessee, permittee, holder or operator of a development structure shall give reasonable assistance to a Canada Lands Surveyor entering under subsection (3).

(5) Any legal survey shall be authorized and paid for by the permittee, holder or lessee as the case may be.

SOR/80-590.

11. (1) Every plan of legal survey shall be signed by the surveyor and submitted to the Surveyor General together with the surveyor's field notes annexed to an affidavit of the surveyor verifying that he has executed the legal survey faithfully, correctly and in accordance with these Regulations and with any instructions, issued to him by the Surveyor General.

(2) Every plan of legal survey shall, where relevant, show

(a) the position, direction and length of the boundaries of grid areas and divisions thereof;

(b) the position of existing wells;

(c) the nature and position of any monument used to mark, or placed as a reference to, any boundary or position referred to in paragraph (a) or (b); and

(d) any road allowance, surveyed road, railway, pipeline, high voltage power lines or other right of way, dwellings, industrial plants, permanent buildings, air fields and existing or proposed flight ways.

SOR/80-590.

12. (1) Where any uncertainty or dispute arises respecting the position of any well or boundary, the Chief may require a permittee, holder or lessee to file a plan of legal survey, approved by the Surveyor General, showing the well or boundary in respect of which the uncertainty or dispute has arisen.

(2) A plan of legal survey shall show the position of such wells, boundaries and references as the Chief may specify.

SOR/80-590.

13. The Surveyor General may, at the request of a permittee, lessee or holder, approve a plan of legal survey of the whole or part of a grid area, permit area, lease area, section, unit or the position of a well.

SOR/80-590.

Monuments

14. The ground position of a grid area, permit area, lease area, section, unit or well may, in the discretion of the Surveyor General, be surveyed by reference to

(a) a monument shown on a plan of legal survey that has been approved by the Surveyor General;

(b) a geodetic survey triangulation station;

(c) a geodetic survey Shoran station;

(d) a marker placed for the purpose of marking a territorial boundary;

(e) a monument as defined in the *Dominion Lands Surveys Act* or the *Canada Lands Surveys Act*;

(f) a physical feature, the geographical position of which has been determined by means of a Shoran-controlled photogrammetric process;

(g) a marker, the geographic position of which has been determined by astronomic means; or

(h) any other marker approved by the Surveyor General.

SOR/80-590.

15. (1) Where a monument shown on a plan of legal survey is damaged, destroyed, moved or altered as a result of the operations of a licensee, permittee, holder or lessee, he shall report the matter to the Chief as soon as possible and shall

(a) pay to the Receiver General of Canada the cost of restoration or re-establishment of the monument; or

(b) with the consent of the Surveyor General, cause the monument to be restored or re-established at his own expense.

(2) Every permittee, lessee or holder shall maintain and keep in good repair all monuments that are located on or mark the boundaries of his permit area or lease area as the case may be.

(3) The restoration or re-establishment of a monument under subsection (1) shall be done by a Canada Lands Surveyor under the instruction of the Surveyor General.

(4) A permittee, lessee or holder shall give the Surveyor General and the Chief at least three months notice of any planned movement of an offshore development structure to which legal survey monuments have been attached and such movement shall not constitute movement of the monuments under subsection (1).

(5) A licensee, permittee, lessee or holder shall report the destruction, damage to, movement or alteration of any monument to the Chief forthwith after he has knowledge of it.

SOR/80-590.

16. Where the position of any boundary of a grid area, permit area, lease area, section or unit or the position of a well has been established by a legal survey approved by the Surveyor General pursuant to these Regulations, the position of that boundary or well so established shall be deemed to be the true position thereof, notwithstanding that the boundary or well is found not to be located in the position required by

these Regulations and shall determine the position of all other sections or units that lie within the grid area.

SOR/80-590.

17. (1) Where, owing to a discordance of reference points or imprecisions in measuring, a subsequently surveyed grid area, section or unit appears to overlap a grid area, section or unit the position of which is deemed to be true by section 16, the subsequently surveyed grid area, section or unit shall be laid out and surveyed as though no overlap existed except that it shall be reduced by that portion that lies within the overlap.

(2) Subject to subsection (1), a grid area that has been reduced pursuant to subsection (1) shall, for the purpose of these Regulations, be considered to be a whole grid area.

(3) Where, owing to a discordance of reference points or imprecisions in measuring, a parcel of Canada lands appears not to lie within a grid area, that parcel may be disposed of pursuant to subsection 30(7) or section 57.

SOR/80-590.

Exploration Wells

18. Every licensee, permittee, holder or lessee shall, before drilling an exploratory well offshore, send to the Oil Conservation Engineer three prints of a tentative plan showing the locations of the proposed drilling and a description of the system and method of positioning the well.

SOR/80-590.

19. (1) Every permittee, holder or lessee shall, before the suspension or abandonment of an exploratory well, send to the Oil Conservation Engineer a plan that clearly shows the surveyed position of that well relative to

- (a) a reference point referred to in section 14; or
- (b) a topographical feature that is identifiable on
 - (i) a map that has been published by or on behalf of the Government of Canada within three years immediately preceding the date on which the plan is submitted, or
 - (ii) a vertical aerial photograph, of mapping standard, obtained from the National Air Photo Library or from such other source as may be acceptable to the Surveyor General.

(2) Where an aerial photograph is used pursuant to paragraph (1)(b), that photograph shall be sent to the Oil Conservation Engineer together with the plan.

(3) A permittee, lessee or holder may, in lieu of the plan referred to in subsection (1), send to the Oil Conservation Engineer the aerial photograph referred to in subparagraph (1)(b)(ii) on which the surface position of the exploratory well has been clearly marked in a manner acceptable to the Surveyor General, after the position thereof has been determined by a field comparison between the site and the photograph.

(4) Where a suspended or abandoned exploratory well is offshore, the electrical centres and other shore stations from which the position of the well was determined shall be permanently marked and the plan referred to in subsection (1) shall be accompanied by a report on the survey system describing all assumed parameters of the survey system and the shore station markings.

SOR/80-590.

20. Every licensee, permittee, lessee or holder shall, as soon as possible after an exploratory well is completed, send to the Oil Conservation Engineer three prints of a legal survey, approved by the Surveyor General showing the surface position of the well and the boundaries of the unit and section in which the well is located.

SOR/80-590.

Development Wells

21. (1) Every permittee, lessee or holder shall, before drilling a development well, send to the Oil Conservation Engineer three prints of a tentative plan showing the approximate surface position of the proposed well and the proposed location of the well at total depth.

(2) In the case of a development well on land, the permittee, lessee or holder shall

(a) within sixty days of commencing drilling, submit to the Surveyor General for approval a plan of legal survey showing the surface position of the well and the boundaries of the unit and section in which the well is located; and

(b) on request of the Chief, submit three prints of a plan showing the locus of the drill hole with respect to the unit and section boundaries.

(3) In the case of a fixed offshore development structure, the permittee, lessee or holder shall

(a) as soon as possible after the erection of the development structure, submit to the Surveyor General for approval a plan of legal survey showing the unit and section in which the structure is situated and the positions of at least two monuments of the legal survey permanently fixed to the structure; and

(b) on request of the Chief, submit three prints of a plan showing the locus of the drill-hole with respect to the unit and section boundaries and the position of the monuments of the legal survey.

SOR/80-590.

22. (1) A tentative plan shall be approved by the Chief prior to the construction, alteration or extension of any work or works in the offshore that will, on completion thereof form all or part of an undertaking for the production, gathering, storing, processing transmission or other handling of oil and gas and such plans shall show the proposed work or works and the system of survey to be used in positioning the work or works.

(2) A final plan satisfactory to the Chief shall, on his request, be submitted to him within six months from the completion of any part of an undertaking described in subsection (1).

SOR/80-590.

Prohibition

23. (1) No person shall, for the purpose of searching for oil or gas, carry out exploratory work on Canada lands except as authorized by these Regulations.

PART I

OIL AND GAS LEASES

Entry on Lands

94. Where the surface rights to the whole or any part of the Canada lands described in a permit or oil and gas lease have been disposed of by Her Majesty under a timber licence, grazing lease, coal mining lease, mining claim or other form of terminable grant, the permittee or lessee shall not enter upon such lands unless he has obtained

(a) the consent of the person holding the timber licence, grazing lease, coal mining lease, mining claim or other form of terminable grant;

- (b) the consent of the occupier of the land; or
- (c) an order for entry from the arbitrator.

Entry on Patented Lands

95. Where the surface rights to the whole or any part of the Canada lands described in a permit or oil and gas lease have been granted by Her Majesty under letters patent or sold under an agreement for sale, the permittee or lessee shall not enter upon the lands that have been so disposed of unless he has obtained

- (a) the consent of the owner of the surface rights;
- (b) the consent of the occupier of the lands; or
- (c) an order for entry from the arbitrator.

Arbitration

96. (1) A licensee, permittee or lessee who has not been able to obtain the consent to enter referred to in section 26, 94 or 95 may apply to an arbitrator for an order permitting entry on to those lands and fixing the compensation therefor.

97. The magistrate of the district in which the lands mentioned in the application lie shall, upon receipt of the application referred to in section 96, become the arbitrator for determining the compensation and permitting entry on to the lands.

Transitional

111. (1) In this section, "prior permit" means a permit that was issued under the *Territorial Oil and Gas Regulations* prior to and was subsisting on September 23, 1957.

(2) A prior permit shall continue in effect until the holder of the permit completes and files with the Chief a request in the form set out in Schedule III.

(3) The *Territorial Oil and Gas Regulations* as they existed on September 23, 1957, continue to apply in respect of prior permits.

(4) Upon the completion and filing of a request in the form set out in Schedule III, these Regulations shall, except as provided in section 112, apply to a prior permit.

113. Subject to the provisions of sections 111 and 112 of these Regulations, all licences, permits and oil and gas leases issued or granted under the provisions of

- (a) the *Territorial Oil and Gas Regulations*, or
- (b) the *Canada Oil and Gas Regulations*,

and subsisting on June 6, 1961, shall be deemed to have been issued or granted under these Regulations.

SCHEDULE VI (s. 2 and 36)

All that part of Canada north of a line following the 60th parallel north latitude from the boundary of Alaska to Hudson Bay, THENCE, along the low water mark of Hudson Bay to Cape Fullerton, THENCE, to Cape Kendall on Southampton Island, THENCE, along the south shore of Southampton Island to Seahorse Point, THENCE, to Lloyd Point on Foxe Peninsula, THENCE, along the low water mark of the southern part of Baffin Island to the southeastern tip of Baffin Island (including the adjacent islands), THENCE, to the Savage Islands, THENCE, to the northwest corner of Resolution Island, THENCE, along the low water mark of the Southern shore of Resolution Island to its southernmost point, and THENCE along parallel 61° 18' north latitude to the easternmost boundary of Canada.

The *Canada Oil and Gas Land Regulations* are made pursuant to section 8 of the *Territorial Lands Act* and subsection 16(2) of the *Federal Real Property Act*. The excerpts that appear above are from chapter 1518 of the *Consolidated Regulations of Canada*, as amended by:

- SOR/80-590 (24.07.80).
- SOR/82-663 (30.06.82).
- SOR/89-144 (09.03.89).

Northwest Territories Mining Districts Order
(*Territorial Lands Act*)

Excerpts from
SOR/92-204 (16.12.92)
As amended

**ORDER DIVIDING THE TERRITORIAL LANDS OF THE
NORTHWEST TERRITORIES INTO MINING DISTRICTS**

Short Title

1. This Order may be cited as the *Northwest Territories Mining Districts Order*.

Districts

2. The territorial lands in the Northwest Territories are hereby divided into two mining districts, described as follows:

- (a) the South Mining District, comprising the area described in Schedule I; and
- (b) the North Mining District, comprising the area described in Schedule II.

SCHEDULE I
(*Section 2*)

South Mining District

COMMENCING, at a point on the border of the Yukon Territory and the Northwest Territories, at the sixtieth parallel north latitude;

THENCE, easterly along the sixtieth parallel north latitude to the low water mark of Hudson Bay;

THENCE, north, following the low water mark of Hudson Bay, to the sixty-fourth parallel north latitude;

THENCE, westerly along the sixty-fourth parallel north latitude to the boundary of the Yukon Territory and the Northwest Territories;

THENCE, generally southeasterly along that boundary to the point of commencement.

SCHEDULE II
(*Section 2*)

North Mining District

All that part of the Northwest Territories that lies outside the South Mining District.

The *Northwest Territories Mining Districts Order* is made pursuant to paragraph 23(g) of the *Territorial Lands Act*. The excerpts that appear above are from SOR/92-204 (16.12.92).

Reservation to the Crown Waiver Orders

(*Territorial Lands Act*)

Summary only

The Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development and pursuant to section 13 of the *Territorial Lands Act*, may waive, by order, the 30.48 metres wide strip of land reserved out of every grant of territorial lands.

These orders all use the same format: an explanation of the authority for the order; short title of the order; the waiver statement; and a schedule containing a description of the lands affected by the waiver.

Excerpts of these orders are not included in this Manual. A copy of a particular order may be obtained from

- a) the Regulation Section, Legal Surveys Division, Geomatics Canada, Department of Natural Resources, Ottawa, Canada;
- b) Canada Communication Group, Publishing, Ottawa, Canada;
- c) an associated bookstore for the sale of Canadian government publications.

Many public libraries also have copies of the *Consolidated Regulations of Canada* and the *Canada Gazette* (Part II).

Territorial Dredging Regulations*(Territorial Lands Act)*

Excerpts from
Chapter 1523, C.R.C.
As amended

**REGULATIONS RESPECTING THE ISSUE OF LEASES
TO DREDGE FOR MINERALS IN THE SUBMERGED
BEDS OF RIVERS IN THE NORTHWEST TERRITORIES
AND YUKON TERRITORY***Short Title*

1. These Regulations may be cited as the Territorial Dredging Regulations.

Interpretation

2. (1) In these Regulations,

"mineral" includes every natural substance including gold and silver that may be recovered from the submerged bed of a river by the process commonly known as dredging, but does not include peat, bitumen, oil shales, clay, sand and gravel;

"Minister" means the Minister of Indian Affairs and Northern Development;

"recorder" means a person designated by the Minister to perform the duties of a recorder for a mining district established under the Territorial Lands Act for the Northwest Territories or for a mining district established under the Yukon Placer Mining Act for the Yukon Territory;

"river" means a stream of water the bed of which is of an average width of 150 feet throughout the portion thereof sought to be leased;

"river bed" means the bed and bars of the river to the foot of the natural banks.

(2) The recorder's decision as to the width of any stream on which dredging applications have been made shall be final.

Leases

3. The Minister may issue leases to any person applying therefor granting the exclusive right to dredge

for minerals in the submerged bed of any river in the Northwest Territories or the Yukon Territory.

4. Every location for a dredging lease shall be marked out by two posts placed on the margin of such river, above highwater mark, as follows:

(a) the No. 1 post shall be at least 4 feet above the surface of the ground located at the upstream end of the area to be covered by the lease and shall be apostate not less than 4 inches in diameter, mounded to a height of 2 feet, such mounding to be conically sharpen and having a diameter at the base of not less than 3 feet, and this post shall be faced on the downstream side, which facing shall contain the following inscription legibly marked thereon:

- (i) post No. 1,
- (ii) date and time of staking,
- (iii) name of staker,
- (iv) distance to No. 2 post,
- (v) the letters "DL";

(b) the No. 2 post shall be similar to the No. 1 post and placed on the same side of the river as the No. 1 post at the downstream end of the location covered by the lease, shall be faced and mounded in the manner prescribed for Post No. 1 and the inscription thereon shall be as follows:

- (i) post No. 2,
- (ii) name of staker,
- (iii) distance upstream to No. 1 post, and
- (iv) the letters "DL".

5. A portion of a river staked under these Regulations shall be continuous, and shall in no case exceed 10 miles measured along the middle of the river following its sinuosities.

6. Every holder of a lease issued under these Regulations shall have the exclusive right to dredge the river bed within the length of river leased to him.

7. Not more than one lease shall be issued to any one person.

8. The lessee shall, when so directed by the Minister, cause a survey to be made, at his own expense and in accordance with the instructions of the Surveyor General, of the area of river leased to him, and the returns of such survey shall be filed in the Department of Indian Affairs and Northern Development within six months after receipt by the lessee of such direction and instructions.

11. (1) A lease of an area in the Northwest Territories issued under these Regulations is subject to the rights of any person who, prior to the issue of the lease, is entitled to or has obtained a grant of a claim under the *Northwest Territories Placer Mining Regulations*.

(2) A lease of an area in the Yukon Territory issued under these Regulations is subject to the rights of any person who prior to the issue of the lease is entitled to or has obtained a grant of a claim or lease to prospect under the *Yukon Placer Mining Act*.

18. The lease shall

(a) reserve all roads, ways, bridges, drains and other public works and all duly authorized improvements now existing or which may hereafter be made in, upon, or under any part of the river, and the right to enter and construct the same,

The *Territorial Dredging Regulations* are made pursuant to section 23 of the *Territorial Lands Act*. The excerpts that appear above are from chapter 1523 of the *Consolidated Regulations of Canada*.

Territorial Land Use Regulations*(Territorial Lands Act)*

Excerpts from
Chapter 1524, C.R.C.
As amended

**REGULATIONS RESPECTING LAND USE
OPERATIONS IN THE YUKON TERRITORY AND THE
NORTHWEST TERRITORIES***Short Title*

1. These Regulations may be cited as the *Territorial Land Use Regulations*.

Interpretation

2. In these Regulations,

"Act" means the Territorial Lands Act;

"Class A Permit" means a permit issued pursuant to section 25;

"Class B Permit" means a permit issued pursuant to section 27;

"Dominion Geodesist" means the Dominion Geodesist and Director of the Geodetic Survey, in the Department of Energy, Mines and Resources;

"engineer" means, with respect to particular lands, the engineer designated by the Minister pursuant to section 4 to serve the area in which the lands are located;

"inspector" means an inspector designated by the Minister pursuant to section 5;

"land use operation" means any work or undertaking on territorial lands that requires a permit;

"line" means a route used to give surface access to any land for the purpose of carrying out a geophysical, geological or engineering survey;

"Minister" means the Minister of Indian Affairs and Northern Development;

"monument" means any post, stake, peg, mound, pit, trench or any other object, thing or device used to officially mark the boundary of any surveyed lands, or placed or established for any topographic, geodetic or cadastral purpose;

"permittee" means the holder of a permit and includes a person engaged in a land use operation or anyone

employed by a permittee to conduct a land use operation;

"stream" means any lake, river, pond, swamp, marsh, channel, gully, coulee or draw that continuously or intermittently contains water;

"Surveyor General" means the Surveyor General as defined in the *Canada Lands Surveys Act*;

"territorial lands" means lands in the Yukon Territory or in the Northwest Territories

(a) that are vested in the Crown or of which the Government of Canada has power to dispose, and

(b) that are under the control, management and administration of the Minister.

SOR/88-169.

Establishment of Land Management Zones

3. The Yukon Territory and the Northwest Territories are hereby set apart and appropriated as land management zones.

Designation of Engineers

4. The minister may designate any officer of the Department of Indian Affairs and Northern Development as an engineer for the purposes of these Regulations.

SOR/82-217;

SOR/88-169.

Designation of Inspectors

5. The Minister may designate any person as an inspector for the purposes of these Regulations.

Exemption from Regulations

6. These Regulations do not apply to

(b) anything done in the course of prospecting, staking or locating a mineral claim unless it requires a use of equipment or material that normally requires a permit;

(c) lands whose surface rights have all been disposed of by the Minister;

SOR/88-169.

7. No person shall engage in a land use operation except in accordance with these Regulations and the *Northern Inland Waters Act* and regulations made thereunder.

Prohibitions

8. No person shall, without a Class A Permit, carry on any work or undertaking on territorial lands that involves

(d) the establishment of any campsite that is to be used for more than 400 man-days;

(f) the use of any self-propelled poker driven machine for moving earth or clearing land of vegetation;

(h) the levelling, grading, clearing, cutting or snowploughing of any line, trail or right-of-way exceeding 10 m in width and exceeding 4 ha in area.

9. No person shall, without a Class B Permit, carry on any work or undertaking on territorial lands that involves

(d) the establishment of any campsite that is to be used by more than two people for more than 100 but less than 400 man-days;

(f) the levelling, grading, clearing, cutting or snowploughing of any line, trail or right-of-way exceeding 1.5 m in width but not exceeding 4 ha in area.

10. No permittee shall, unless expressly authorized in his permit or expressly authorized in writing by an inspector

(a) conduct a land use operation within 30 m of a known monument or a known or suspected archaeological site or burial ground;

Clearing of Lines, Trails or Rights-of-Way

14. (1) Unless expressly authorized in a permit, no permittee shall

(a) clear a new line, trail or right-of-way where there is an existing line, trail or right-of-way that he can use;

(b) clear a line, trail or right-of-way wider than 10 m; or

(c) while clearing a line, trail or right-of-way, leave leaners or debris in standing timber.

(2) Where, in the opinion of an inspector, serious erosion may result from a land use operation, the permittee shall adopt such measures to control erosion as may be required by the inspector.

Monuments

15. (1) Where a boundary monument is damaged, destroyed, moved or altered in the course of a land use operation, the permittee shall

(a) report the fact immediately to the Surveyor General and pay to the Surveyor General the costs of

(i) investigating such damage, destruction, movement or alteration, and

(ii) restoring or re-establishing the monument to its original condition or its original place; or

(b) with the prior written consent of the Surveyor General, cause the monument to be restored or re-established at his own expense.

(2) Where a topographic or geodetic monument is damaged, destroyed or altered in the course of a land use operation, the permittee shall

(a) report the fact immediately to the Dominion Geodesist, and pay to the Dominion Geodesist the costs described in subparagraphs (1)(a)(1) and (ii); or

(b) with the prior written consent of the Dominion Geodesist, cause the monument to be restored or re-established at his own expense.

(3) The restoration or re-establishment of a monument pursuant to subsection (1) or (2) shall be carried out in accordance with instructions from the Surveyor General or Dominion Geodesist, as the case may be.

Restoration of Permit Area

18. Subject to the terms and conditions of his permit, every permittee shall, after completion of a land use operation, restore the permit area as nearly as possible to the same condition as it was prior to the commencement of the land use operation.

Application for a Permit

22. (1) Any person who, in accordance with section 21, is eligible for a permit may submit to the engineer, in duplicate, an application for a permit in a form approved by the Minister.

(2) Every permit application submitted pursuant to subsection (1) shall be accompanied by the application fee set out in Schedule I, the land use fee set out in Schedule II and a preliminary plan showing

- (a) the lands proposed to be used and an estimate of their area; and
- (b) the approximate location of all
 - (i) existing lines, trails, rights-of-way and cleared areas proposed to be used in the land use operation,
 - (ii) new lines, trails, rights-of-way and cleared areas proposed to be used in the land use operation,
 - (iii) buildings, campsites, air landing strips, air navigation aids, fuel and supply storage sites, waste disposal sites, excavations and other works and places proposed to be constructed or used during the land use operation, and
 - (iv) bridges, dams, ditches, railroads, highways and roads, transmission lines, pipelines, survey lines and monuments, air landing strips, streams and all other features, structure or works that, in the opinion of the applicant, may be affected by the land use operation.

SOR/88-169;
SOR/96-113.

25. (1) The engineer shall, within 10 days after receipt of an application for a Class A Permit made in accordance with these Regulations,

- (a) issue a Class A permit subject to any terms and conditions he may include therein pursuant to subsection 31(1);
- (b) notify the applicant that further time is required to issue a permit and give the reasons therefor;

(c) notify the applicant in writing that he has ordered further studies or investigations to be made respecting the lands proposed to be used and state the reasons therefor; or

(d) refuse to issue a permit and notify the applicant in writing of his refusal and the reasons therefor.

SOR/88-169.

27. (1) The engineer shall, within 10 days after receipt of an application for a Class B Permit made in accordance with these Regulations,

- (a) issue a Class B permit subject to any terms and conditions he may include therein pursuant to subsection 31(1);
- (b) refuse to issue a permit and notify the applicant in writing of his refusal and the reasons therefor.

SOR/88-169.

Final Plan

33. (1) Every permittee shall, within 60 days after the completion of a land use operation or the expiry of his permit, whichever occurs first, submit a final plan in duplicate to the engineer showing

- (a) the lands actually subjected to the land use operation;
- (b) the location of
 - (i) lines, trails, rights-of-way and cleared areas that were used by the permittee during the land use operation, specifying those that were cleared by the permittee and those that existed before the land use operation began.
 - (ii) buildings, campsites, air landing strips, air navigation aids, fuel and supply storage sites, waste disposal sites, excavations and other works and places that were constructed or used by the permittee during the land use operation, and
 - (iii) bridges, dams, ditches, railroads, highways and roads, transmission lines, pipelines, survey lines and monuments, air landing strips, streams and all other features, structures or works that were affected by the land use operation; and
- (c) the calculations of the area of territorial lands used in the operation.

(2) The final plan submitted to the engineer pursuant to subsection (1) shall be

(a) certified by the permittee or his agent authorized for the purpose as to the accuracy of

- (i) locations, distances and areas, and
- (ii) the representation of the land use operation; or

(b) drawn from and accompanied by positive prints of vertical aerial photographs or aerial photomosaics showing the lands subjected to the land use operation.

(4) The engineer shall reject the final plan if it does not comply with this section and section 35 and the permittee shall, within three weeks after receipt of written notice from the engineer of rejection of the plan, submit to the engineer another final plan that complies with this section and section 35.

SOR/88-169.

Land Division and Plans

35. Every preliminary plan or final plan submitted under these Regulations shall

- (a) be drawn to a scale that clearly shows the lands that the applicant for a permit proposes to use or the permittee has used;
- (b) show the scale to which the plan is drawn; and
- (c) show locations
 - (i) in accordance with sections 5 to 9 of the *Canada Oil and Gas Land Regulations*, or
 - (ii) by giving the geographic co-ordinates thereof.

The *Territorial Land Use Regulations* are made pursuant to paragraph 23(j) of the *Territorial Lands Act*. The excerpts that appear above are from chapter 1524 of the *Consolidated Regulations of Canada* as amended by:

- SOR/82-217 (08.02.82).
- SOR/88-169 (03.03.88).
- SOR/96-113 (13.02.96).

Territorial Lands Regulations (*Territorial Lands Act*)

Excerpts from
Chapter 1525, C.R.C.
As amended

REGULATIONS RESPECTING THE ADMINISTRATION AND DISPOSAL OF TERRITORIAL LANDS IN THE YUKON TERRITORY AND THE NORTHWEST TERRITORIES

Short Title

1. These Regulations may be cited as the *Territorial Lands Regulations*.

Interpretation

2. In these Regulations,

"Act" means the *Territorial Lands Act*;

"land agent" means an employee of the Department of Indian Affairs and Northern Development designated by the Minister as a land agent for an area of the Yukon Territory or Northwest Territories;

"Minister" means the Minister of Indian Affairs and Northern Development;

"Superintendent" means the Superintendent of Resources for the Yukon Territory of the Northwest Territories.

Application

3. These Regulations apply only to territorial lands under the control, management and administration of the Minister.

Application to Purchase or Lease Territorial Lands

4. Every application to lease or purchase territorial lands shall be made to the land agent for the area in which the land is situated and shall be accompanied by the application fee set out in the schedule.

SOR/96-111.

5. Where application is made to a land agent to lease or purchase territorial lands that are not surveyed, the land agent shall accompany the applicant to the site of the lands he wishes to purchase or lease, prepare a sketch of the lands, and, if he deems it necessary, mark off on the ground the boundary limits of the land.

6. Every person who wishes to purchase territorial lands shall enter into an agreement for sale with the Minister containing such terms and conditions as the Minister may deem necessary.

Sale of Territorial Lands

7. (1) Every agreement for sale and every grant of territorial lands other than surveyed territorial lands in a townsite shall be deemed to contain the following reservations and conditions in addition to those prescribed by the Act

(a) a reservation of such part or parts of the land as may from time to time be appropriated by Her Majesty in right of Canada for the purpose of a public road; and

(b) where the land sold has an area in excess of 10 acres, the condition that if the owner subdivides the lands or any portion thereof into townsite lots, one-third of the lots in the land so subdivided shall revert to the Crown.

(2) Lots to which the Crown is entitled under paragraph (1)(b) shall be selected as follows:

(a) the owner shall first select two lots, and

(b) the land agent shall then select one lot for the Crown, and this process shall be repeated until all lots are selected.

9. (1) The survey of all unsurveyed territorial lands shall be in accordance with the instructions of the

Surveyor General and the cost thereof shall be paid by the purchaser.

(2) Letters patent for territorial lands shall not be issued until a plan of survey thereof has been approved and confirmed by the Surveyor General and registered in the appropriate land titles office.

Leasing of Territorial Lands

10. Every lease of territorial lands shall be for a term of not more than 30 years, but the Minister may grant a renewal of the lease for a further term not exceeding 30 years.

12. Every lease of territorial lands shall contain, in addition to such terms and conditions as the Minister may deem necessary, a reservation of

(a) all mines and of all minerals whether solid, liquid or gaseous which may be found to exist within, upon, or under such lands together with the full powers to work the same and for that purpose to enter upon, use and occupy the lands or so much thereof and to such an extent as may be necessary for the effectual working and extracting of the said minerals;

(b) the rights of the recorded holders of mineral claims and any other claims or permits affecting the lands;

(c) all timber that may be on the land;

(d) the right to enter upon work and remove any rock outcrop required for public purposes;

(e) such right or rights of way and of entry as may be required under regulations in force in connection with the construction, maintenance and use of works for the conveyance of water for use in mining operations; and

(f) the right to enter upon the lands for the purpose of installing and maintaining any public utility.

The *Territorial Lands Regulations* are made pursuant to section 23 of the *Territorial Lands Act*. The excerpts that appear above are from chapter 1525 of the *Consolidated Regulations of Canada* as amended by:

- SOR/96-111 (13.02.96).

Territorial Quarrying Regulations*(Territorial Lands Act)*

Excerpts from
Chapter 1527, C.R.C.
As amended

**REGULATIONS RESPECTING THE DISPOSAL OF
LIMESTONE, GRANITE, SLATE, MARBLE, GYPSUM,
LOAM, MARL, GRAVEL, SAND, CLAY, VOLCANIC
ASH OR STONE IN TERRITORIAL LANDS IN THE
NORTHWEST TERRITORIES AND YUKON TERRITORY**

Short Title

1. These Regulations may be cited as the *Territorial Quarrying Regulations*.

Interpretation

2. In these Regulations,

"Crown" means Her Majesty in right of Canada;

"Department" means the Department of Indian Affairs and Northern Development;

"Minister" means the Minister of Indian Affairs and Northern Development;

"territorial lands" means lands in the Northwest Territories or in the Yukon Territory that are vested in the Crown or of which the Government of Canada has power to dispose.

Application

3. These Regulations apply only to territorial lands under the control, management and administration of the Minister.

Staking

4. (1) A person who desires to obtain a lease of territorial lands for the purpose of taking limestone, granite, slate, marble, gypsum, marl, gravel, loam, sand, clay, volcanic ash or stone therefrom, shall stake such lands in the manner prescribed in this section.

(2) In the case of loam, the area shall not exceed 20 acres, and in the case of any other material mentioned in subsection the area shall not exceed 160 acres; and the length of any area shall not exceed twice the breadth.

(3) The area staked shall be rectangular in form except where a boundary of a previously staked tract is adopted as common to both areas.

(4) The land shall be marked by the applicant with posts firmly fixed in the ground, one at each corner; in areas where there is no timber, rock cairns may be used in lieu of posts.

(5) Each post shall be at least 4 inches square and when firmly planted shall be not less than 4 feet above the ground.

(6) Each post shall bear markings showing the number of the post, the name of the applicant, the date of staking and the kind of material which it is desired to remove.

(7) When rock cairns are used, they shall be well constructed, be not less than 2 feet high and 2 feet in diameter at the base, a metal container shall be built into the cairn, and a notice bearing the number of the cairn, the name of the applicant, the date of staking and the kind of material which it is desired to remove shall be placed therein.

(8) In a timbered area the lines between the posts shall be clearly marked, and in treeless areas mounds of earth or rock not less than 2 feet high and 2 feet in diameter at the base may be used to mark the lines between the cairns.

(9) The applicant shall post a written or printed notice on a post or in a cairn setting out his intention to apply for a lease within the time prescribed by these Regulations.

(10) If two or more persons apply for the same area, the person who first staked the area in accordance with these Regulations shall be entitled to priority in respect of the issuance of a lease.

Leases

5. Territorial lands containing limestone, granite, slate, marble, gypsum, loam, marl, gravel, sand, clay, volcanic ash or stone may be leased by the Minister for the sole purpose of quarrying out or removing therefrom any such substances or materials.

6. (1) An application for a lease shall be filed with the territorial land agent of the land district in which the land is situated within 30 days from the date upon which it was staked.

(3) Every application for a lease shall be in duplicate and shall contain

(a) a description by metes and bounds of the land applied for;

(c) a sketch showing clearly the position of the parcel in relation to a survey monument, prominent topographical feature or other known point and showing in its margin, copies of the markings on the posts or cairns; and

SOR/96-112.

The *Territorial Quarrying Regulations* are made pursuant to section 23 of the *Territorial Lands Act*. The excerpts that appear above are from chapter 1527 of the *Consolidated Regulations of Canada* as amended by:

- SOR/96-112 (13.02.96).

Withdrawal of Certain Lands from Disposal Orders

(*Territorial Lands Act*)

Summary only

The Governor in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to paragraph 23(b) of the *Territorial Lands Act*, may withdraw, by order, any tract or tracts of lands from disposal. Such lands may not be disposed of by the Crown until the date specified in the order. The withdrawal is made without prejudice to recorded mineral claims in good standing, existing oil and gas rights, and surface rights in good standing.

The orders specify the reasons for the withdrawal. This type of order is used most often to facilitate the setting apart of lands for the establishment of national parks and the settlement of Aboriginal land claims.

Excerpts of these orders are not included in this Manual. A copy of a particular order may be obtained from

- a) the Regulation Section, Legal Surveys Division, Geomatics Canada, Department of Natural Resources, Ottawa, Canada;
- b) Canada Communication Group, Publishing, Ottawa, Canada;
- c) an associated bookstore for the sale of Canadian government publications.

Many public libraries also have copies of the *Consolidated Regulations of Canada* and the *Canada Gazette* (Part II).

Territorial Sea Geographical Coordinates Orders

(Territorial Sea and Fishing Zones Act)

Summary only

The Governor in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to section 5 of the *Territorial Sea and Fishing Zones Act*, may establish, by order, one or more lists of geographical coordinates from which baselines may be determined. The orders also make provisions for describing the baselines joining the coordinates.

Two (2) orders respecting geographical coordinates have been issued to date. The first order (C.R.C., c. 1550 as amended by SOR/93-51) establishes the baselines around Labrador, Newfoundland, Nova Scotia, Vancouver Island and Queen Charlotte islands. The other order (SOR/85-872) establishes the baselines around the islands of the Arctic archipelago.

Excerpts of these orders are not included in this Manual. A copy of a particular order may be obtained from

- a) the Regulation Section, Legal Surveys Division, Geomatics Canada, Department of Natural Resources, Ottawa, Canada;
- b) the Canadian Hydrographic Service, Ottawa, Canada;
- c) Canada Communication Group, Publishing, Ottawa, Canada;
- d) an associated bookstore for the sale of Canadian government publications.

Many public libraries also have copies of the *Consolidated Regulations of Canada* and the *Canada Gazette* (Part II).

Prohibition of Entry on Certain Lands Orders

(*Yukon Placer Mining Act* and *Yukon Quartz Mining Act*)

Summary only

The Governor in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to section 98 of the *Yukon Placer Mining Act* and section 14.1 of the *Yukon Quartz Mining Act*, may prohibit, by order, entry on certain land in the Yukon Territory. These orders prohibit the staking of mining claims or the prospecting for precious metals on lands described in the orders.

These orders specify the terms and conditions of the prohibition, and state the public purpose for which the lands may be required. Most of the orders are made to facilitate the settlement of native land claims. The lands affected by an order may be required for any public purpose such as an harbour, airfield, road, national park, historic site or town site.

Excerpts of these orders are not included in this Manual. A copy of a particular order may be obtained from

- a) the Regulation Section, Legal Surveys Division, Geomatics Canada, Department of Natural Resources, Ottawa, Canada;
- b) Canada Communication Group, Publishing, Ottawa, Canada;
- c) an associated bookstore for the sale of Canadian government publications.

Many public libraries also have copies of the *Consolidated Regulations of Canada* and the *Canada Gazette* (Part II).

Yukon Waters Regulations
(*Yukon Waters Act*)

Excerpts from
SOR/93-303 (15.06.93)
As amended

**REGULATIONS RESPECTING INLAND WATER
RESOURCES IN THE YUKON TERRITORY**

Short Title

1. These Regulations may be cited as the *Yukon Waters Regulations*.

Interpretation

2. (1) In these Regulations,
"Act" means the *Yukon Waters Act*;

Water Management Areas

3. The geographical areas of the Yukon Territory set out in Schedule I are established as water management areas.

Application

4. These Regulations apply in respect of the water management areas established under section 3.

Application for Expropriation

13. An application under section 31 of the Act shall include

- (a) a legal description of the lands or interest in respect of which the application is made and the name and address of the owner of every registered interest therein; and

SCHEDULE I
(s. 3)

Water Management Areas

1. The Liard River, its tributaries and all river basins of the Liard River and its tributaries
2. The Yukon River, its tributaries and all river basins of the Yukon River and its tributaries, including the Tanana River
3. The Alsek River, its tributaries and all river basins of the Alsek River and its tributaries
4. The Peel River, its tributaries and all river basins of the Peel River and its tributaries
5. The Porcupine River, its tributaries and all river basins of the Porcupine River and its tributaries
6. All other waters and river basins of the mainland draining into the Beaufort Sea or into the Mackenzie River, and Herschel Island

The *Yukon Waters Regulations* are made pursuant to section 33 of the *Yukon Waters Act*. The excerpts that appear above are from SOR/93-303 (15.06.93).



STATUTES OF THE NORTHWEST TERRITORIES

Introduction

Contents

This Chapter contains excerpts from the *Revised Statutes of the Northwest Territories, 1988* and from the annual editions of the *Statutes of the Northwest Territories*.

The *Revised Statutes of the Northwest Territories, 1988* is a consolidation and revision of the public general statutes of the Northwest Territories which were in force on 31 December, 1988. The *Revised Statutes of the Northwest Territories, 1988* also contain Acts of general application which were enacted between 31 December, 1988 and 15 July, 1991.

The annual editions of the *Statutes of the Northwest Territories* contain Acts of the Legislature of the Northwest Territories which received Royal Assent during a particular year. This Chapter also contains excerpts of Acts enacted after 15 July, 1991 (the date the *Revised Statutes of the Northwest Territories, 1988* came into force). These Acts are published in the annual *Statutes of the Northwest Territories* from 1991 on.

Caution

The excerpts in this Part of the Manual have been prepared for convenience of reference only and have no official sanction. Reference to excerpts is at the user's discretion. The Legal Surveys Division, Department of Natural Resources, assumes no responsibility for any reproduction of the excerpts.

For all purposes of interpreting and applying the law, users should consult the Acts as passed

by the Legislature of the Northwest Territories which are published in:

- (a) the *Revised Statutes of the Northwest Territories, 1988*; and
- (b) the annual editions of the *Statutes of the Northwest Territories*.

The above mentioned publications are available in most public libraries. They may also be purchased from the Territorial Printer, Northwest Territories, Yellowknife, Northwest Territories.

Abbreviations

The following abbreviations are used in this Part of the Manual:

| <u>Abbreviation</u> | <u>Definition</u> |
|----------------------|--|
| c. | chapter |
| CIF | came in force |
| ex. | except |
| NIF | not in force |
| R-123-96 | Regulation number |
| R.S.N.W.T. 1988 | <i>Revised Statutes of the Northwest Territories, 1988</i> |
| RA | Royal Assent |
| s. | section |
| S.N.W.T. | <i>Statutes of the Northwest Territories</i> |
| Sch. | Schedule |
| SI-123-96 | Statutory Instrument number |
| ss. | sections |
| Supp. | Supplement |

Organization of Acts

The Acts are set out in alphabetical order and are documented similar to the Acts in Chapter A1. See Chapter A1 (Organization of Acts) for a detailed explanation.

In force dates

The *Revised Statutes of the Northwest Territories, 1988* and the First and Second Supplements came into force on 15 July 1991. The Third and last Supplement came into force on 1 January, 1992.

Unless specified otherwise, Acts originating from the *Revised Statutes of the Northwest Territories, 1988* came into force in accordance with the above dates. For example, the excerpts of the *Commissioner's Lands Act* are from Chapter C-11 of the *Revised Statutes of the Northwest Territories, 1988*. Except for those parts of the Act which may have been amended, the excerpts came into force on 15 July, 1991.

A statute comes into force on Royal Assent unless there is a provision in the statute specifying that the statute, or parts thereof, comes into force at a later date. In this Chapter, references to an enactment that came into force after 15 July 1991 contain the date of Royal Assent and, if applicable, coming into force dates.

For example, a reference such as

- (a) ■ S.N.W.T. 1994, c. 5, s. 19; RA 08.06.94.

means that chapter 5 of the *Statutes of the Northwest Territories, 1994* received Royal Assent on 8 June, 1994. Since no CIF date appears in the notation, section 19 of that Act came into force on Assent; and

- (b) ■ S.N.W.T. 1994, c. 19; RA 28.04.94;
CIF 21.04.95 ex. s. 3(2) (SI-072-95);
s. 3(2) CIF 28.04.94.

means that chapter 19 of the *Statutes of the Northwest Territories, 1994* received Royal Assent on 28 April, 1994. By virtue of Statutory Instrument number SI-072-95, it came into force on 21 April, 1995 except for subsection 3(2) which came into force on assent.

How current are the excerpts?

This Chapter contains only the enactments which were in force on 12 December 1988 or which came into force after that date. The excerpts have been updated to the applicable date indicated in the Table of Consolidation preceding Part A of this Manual.

Area Development Act

Excerpts from
Chapter A-8, R.S.N.W.T. 1988
As amended

Definitions

1. In this Act,

"development area"

"development area" means an area designated as development area under subsection 2(1);

Designation of development area

2. (1) The Commissioner may designate any area in the Territories as a development area where the Commissioner considers that it will be necessary in the public interest to regulate the orderly development of the area, as contemplated by this Act.

Maximum area

(2) An area designated under subsection (1) on or after February 15, 1979, must not exceed 150 km of land, and the straight line joining any two points on the perimeter must not exceed 30 km.

Regulations

6. On the recommendation of the Minister, the Commissioner may make regulations for the orderly development of a development area and, for greater certainty, but not so as to limit the generality of this power to make regulations, may make regulations respecting

(a) the zoning of the development area, including the allocation of land in the area for agricultural, residential, business, industrial, educational, public or other purposes, and the regulation and prohibition of businesses in the area;

(b) the regulation or prohibition of the erection, maintenance, alteration, repair or removal of buildings;

(c) streets, roads, lanes, sidewalks, parks, street lighting and street transit;

The above excerpts of the *Area Development Act* are from chapter A-8 of the *Revised Statutes of the Northwest Territories, 1988*.

Charter Communities Act

Excerpts from
Chapter C-4, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. (1) In this Act,

"by-law"

"by-law" means a by-law made by a council, under this or any other Act;

"charter community"

"charter community" means a municipal corporation established or continued with a community charter under section 6 or 7;

"city"

"city" means a city as defined in the *Cities, Towns and Villages Act*;

"community charter"

"community charter" means the charter of a charter community set out in an order made under section 6 or 7;

"council"

"council" means the council of a municipal corporation;

"council member"

"council member" means a member of a council;

"hamlet"

"hamlet" means a hamlet as defined in the *Hamlets Act*;

"mayor"

"mayor" means the presiding council member;

"municipal corporation"

"municipal corporation" means a corporation established or continued under this Act as a charter community;

"municipal road"

"municipal road" means a road in respect of which a council may make by-laws under section 73;

"municipality"

"municipality" means the geographic area of jurisdiction of a municipal corporation;

"officer"

"officer" means the senior administrative officer or an employee of a municipal corporation appointed as an officer under section 47;

"real property"

"real property" includes an interest in real property;

"senior administrative officer"

"senior administrative officer" means the senior administrative officer of a municipal corporation appointed under section 46;

"settlement"

"settlement" means the geographic area designated as a settlement under the *Settlements Act*;

"town"

"town" means a town as defined in the *Cities, Towns and Villages Act*;

"village"

"village" means a village as defined in the *Cities, Towns and Villages Act*;

S.N.W.T. 1994, c. 3, s. 2.

PART I

INCORPORATION

Establishment of municipal corporation

6. (1) Subject to sections 2 and 4, the Minister, on the recommendation of the Executive Council, and after considering any objection made under section 3, may, by order, establish charter community.

Content of order

(2) The order establishing a municipal corporation must

- (a) fix the name and status of the municipal corporation;
- (b) determine the boundaries of the municipality; and
- (c) include the community charter.

Request to change name

6.1 (1) A council may request the Minister to change the name of the municipal corporation.

Change of name

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, change the name

of a municipal corporation and provide for any transitional matters that may be necessary.

Effect of change of name

(3) The change of name of a municipal corporation does not affect any officer, employee, by-law, resolution, asset, liability, right, duty, obligation or function of the municipal corporation.

added; R.S.N.W.T. 1988, c. 30(Supp.), s.2.

Definition of "municipal corporation"

7. (1) In this section, "municipal corporation" includes a hamlet, village, town and city.

Change in status of municipal corporation

(2) The Minister may, on the Minister's own initiative or at the request of the council, by order,

- (a) change the status of a municipal corporation to a charter community; and
- (b) provide for any transitional matters that may be necessary.

Saving provision for change in status

8. (1) Subject to this Act, the change in status of a municipal corporation does not affect

- (b) any by-law or resolution of the municipal corporation;

Request to vary boundaries

9. (1) A council may request the Minister to vary the boundaries of the municipality.

Variation of boundaries

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, vary the boundaries of a municipality and provide for any transitional matters that may be necessary.

Effect of variation of boundaries

(3) Where the boundaries of a municipality have been varied, all by-laws apply to the municipality as varied from the date the order made under subsection (2) takes effect.

PART II

ADMINISTRATION

OFFICERS

Senior administrative officer

46. (1) Every council shall, by by-law, appoint a senior administrative officer.

Change in title

(3) A council may call the senior administrative officer by another name for the purposes of the municipal corporation.

Appointment and duties

47. (1) The council may, by by-law, appoint employees to be officers and authorize them to perform

- (a) any statutory duty assigned to the senior administrative officer by this Act, other than those assigned under section 50; or
- (b) any other duties the council considers necessary.

Acting officers

(2) The council may appoint employees to act on behalf of any officer where the officer is absent or unable to act.

Other duties

51. (1) The senior administrative officer or other officers that council may appoint under section 47 shall

- (a) have custody of the seal of the municipal corporation and cause it to be affixed to documents where required;
- (d) have custody of the original of every by-law of the municipal corporation;
- (e) provide copies of by-laws, minutes and other public documents of the municipal corporation in accordance with this Act;

PART III

BY-LAWS

GENERAL

Authority of community charter

57. A council may make by-laws under this Part only where it is specifically authorized to do so in its community charter.

Limit on power to make by-laws

58. (1) The power of a council to make by-laws is subject to all Acts and regulations of the Territories and Canada unless an Act or regulation expressly states otherwise.

Effect of inconsistency

(2) Where a by-law is inconsistent with an Act or regulation, the by-law is of no effect to the extent of the inconsistency.

Requirements for by-laws

61. Every by-law, to be effective, must be

- (a) in writing;
- (b) under the seal of the municipal corporation;
- (c) signed by the mayor or other presiding council member; and
- (d) signed by the senior administrative officer.

Effective date of by-law

62. Subject to this Act, a by-law is effective on the date it meets the requirements of section 61 or at a later date that the by-law may fix.

Amending or repealing by-law

69. (1) Subject to this Act, a council may, by by-law, amend or repeal a by-law.

Limit on amendment or repeal

(2) The power of a council to amend or repeal a by-law is subject to the same conditions as the power to make the by-law.

(e) a road outside the municipality and designated as a municipal road by the Minister, by order, on the recommendation of the Executive Council.

Primary highway

(2) No council may make by-laws under this Part in respect of a primary highway, designated under the *Public Highways Act*, except in accordance with an agreement made under that Act.

R.S.N.W.T. 1988, c. 8(Supp.), s. 200.

Incidental powers

74. A council may, by by-law,

- (a) classify municipal roads for any purpose it considers necessary;
- (b) adopt as a municipal road any road on private land dedicated for public use, by the owner by instrument in writing;
- (d) provide for the naming or numbering of municipal roads and the numbering of buildings.

Opening and closing roads

79. (1) A council may, by by-law, provide for the opening and closing of municipal roads in accordance with this Act.

Right to compensation and access

(2) No municipal corporation shall close a municipal road if it prevents a person from entering or leaving his or her real property or residence, unless the municipal corporation provides the person with

- (a) reasonable compensation; and
- (b) other convenient means of access.

ROADS

Authority over roads

73. (1) A council may make by-laws under this Part in respect of the following roads in the municipality:

- (a) a road shown on a plan of survey registered under the *Land Titles Act*;
- (b) a road on public land that is designed or intended for or used by the public but not shown on a plan of survey registered under the *Land Titles Act*;
- (c) a road on private land dedicated for public use by the owner by instrument in writing and adopted as a municipal road by by-law;
- (d) road maintained at the expense of the municipal corporation on a frozen body of water or water course;

REAL PROPERTY

Real property

135. (1) A municipal corporation may, for a municipal purpose,

- (a) purchase, lease or otherwise acquire real property;
- (b) use, hold or develop real property belonging to the municipal corporation; or
- (c) subdivide real property belonging to the municipal corporation in accordance with the *Planning Act*.

Disposition of real property

(2) A municipal corporation may sell, lease or otherwise dispose of real property belonging to the municipal corporation where

(a) the real property is not required for a municipal purpose; or

(b) the disposition of the real property is necessary for or promotes a municipal purpose.

Municipal purpose

(3) For greater certainty, the development or subdivision of real property belonging to the municipal corporation

(a) for subsequent sale, lease or other disposition, and

(b) for residential, commercial, industrial, institutional or other use,

is deemed, for the purposes of this Act, to be a municipal purpose.

S.N.W.T. 1994, c. 3, s. 3.

LIMITATIONS

Prohibition on exemptions

137. No council has the power to grant a specific person an exemption from

(b) the application of a by-law, unless specifically authorized by an Act or regulation.

PART VII

GENERAL

Regulations

216. The Commissioner, on the recommendation of the Minister, may make regulations

(a) prescribing the forms that are necessary or advisable in carrying out the provisions of this Act; and

(b) prescribing any matter or thing that by this Act may or is to be prescribed.

The above excerpts of the *Charter Communities Act* are from chapter C-4 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- R.S.N.W.T. 1988, c. 8(Supp.), s. 200; RA 26.10.88; CIF 19.07.93 (SI-008-93).
- R.S.N.W.T. 1988, c. 30(Supp.); RA 02.11.89.
- R.S.N.W.T. 1988, c. 46(Supp.), s.28; RA 02.11.89.
- S.N.W.T. 1994, c. 3; RA 17.03.94; CIF 01.05.94 (SI-007-94).
- S.N.W.T. 1994, c. 21; RA 21.10.94.
- S.N.W.T. 1995, c. 11; RA 24.02.95.

Cities, Towns and Villages Act

Excerpts from
Chapter C-8, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"by-law"

"by-law" means a by-law made by a council under this or any other Act;

"charter community"

"charter community" means a charter community as defined in the *Charter Communities Act*;

"city"

"city" means a municipal corporation with the status of a city;

"council"

"council" means the council of a municipal corporation;

"councillor"

"councillor" means a council member other than the mayor;

"hamlet"

"hamlet" means a hamlet as defined in the *Hamlets Act*;

"mayor"

"mayor" means the presiding council member;

"municipal corporation"

"municipal corporation" means a corporation established under or continued by or under this Act as a city, town or village;

"municipal road"

"municipal road" means a road in respect of which a council may make by-laws under section 69;

"municipality"

"municipality" means the geographic area of jurisdiction of a municipal corporation;

"real property"

"real property" includes an interest in real property;

"resolution"

"resolution" means a resolution of a council;

"senior administrative officer"

"senior administrative officer" means the senior administrative officer of a municipal corporation appointed under subsection 43(1);

"settlement"

"settlement" means the geographic area designated as a settlement under the *Settlements Act*;

"town"

"town" means a municipal corporation with the status of a town;

"village"

"village" means a municipal corporation with the status of a village;

S.N.W.T. 1994, c. 4, s. 2.

PART I

INCORPORATION

Establishment of municipal corporation

4. (1) The Minister, after causing public notice to be given of the intention of the Minister and after considering any objection made under section 3, may, by order, establish a city, town or village.

Content of order

(2) The order establishing a municipal corporation must

- (a) fix the name and status of the municipal corporation;
- (b) determine the boundaries of the municipality;

Request to change name

4.1 (1) A council may request the Minister to change the name of the municipal corporation.

Change of name

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, change the name of a municipal corporation and provide for any transitional matters that may be necessary.

Effect of change of name

(3) The change of name of a municipal corporation does not affect any officer, employee, by-law,

resolution, asset, liability, right, duty, obligation or function of the municipal corporation.

added; R.S.N.W.T. 1988, c. 31(Supp.), s. 2.

Definition of "municipal corporation"

5. (1) In this section, "municipal corporation" includes a charter community and a hamlet.

Change in status of municipal corporation

(2) The Minister may, on the Minister's own initiative or at the request of the council, by order,

(a) change the status of a municipal corporation to a city, town or village; and

(b) provide for any transitional matters that may be necessary.

Saving provision for change in status

6. (1) The change in status of a municipal corporation does not affect

(b) any by-law or resolution of the municipal corporation;

Request to vary boundaries

7. (1) A council may request the Minister to vary the boundaries of the municipality.

Variation of boundaries

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, vary the boundaries of a municipality and provide for any transitional matters that may be necessary.

Effect of variation of boundaries

8. Where the boundaries of a municipality have been varied, all by-laws apply to the municipality as varied from the date the order made under subsection 7(2) takes effect.

PART II

ADMINISTRATION

OFFICERS

Senior administrative officer

43. (1) Every council shall, by by-law, appoint a senior administrative officer.

Status

(2) The senior administrative officer is an employee.

Change in title

(3) A council may call the senior administrative officer by another name for the purposes of the municipal corporation.

Appointment and duties

44. (1) The council may, by by-law, appoint employees to be officers and authorize them to perform

(a) any statutory duty assigned to the senior administrative officer by this Act, other than those assigned under section 47; or

(b) any other duties the council considers necessary.

Acting officers

(2) The council may appoint employees to act on behalf of any officer where the officer is absent or unable to act.

Other duties

48. (1) The senior administrative officer or other officers that the council may appoint under section 44 shall

(a) have custody of the seal of the municipal corporation and cause it to be affixed to documents where required;

(d) have custody of the original of every by-law of the municipal corporation;

(e) provide copies of by-laws, minutes and other public documents of the municipal corporation in accordance with this Act;

PART III

BY-LAWS

GENERAL

Limit on power to make by-laws

54. (1) The power of a council to make by-laws is subject to all Acts and regulations of the Territories and Canada unless an Act or regulation expressly states otherwise.

Effect of inconsistency

(2) Where a by-law is inconsistent with an Act or regulation, the by-law is of no effect to the extent of the inconsistency.

Requirements for by-laws

57. Every by-law, to be effective, must be

- (a) in writing;
- (b) under the seal of the municipal corporation;
- (c) signed by the mayor or other presiding council member; and
- (d) signed by the senior administrative officer.

Effective date of a by-law

58. Subject to this Act, a by-law is effective on the date it meets the requirements of section 57 or at a later date that the by-law may fix.

Amending or repealing a by-law

65. (1) Subject to this Act, a council may, by by-law, amend or repeal a by-law.

Limit on amendment or repeal

(2) The power of a council to amend or repeal a by-law is subject to the same conditions as the power to make the by-law.

Incidental powers

70. A council may, by by-law,

- (a) classify municipal roads for any purpose it considers necessary;
- (b) adopt as a municipal road any road on private land dedicated for public use by the owner by instrument in writing;
- (d) provide for the naming or numbering of municipal roads and the numbering of buildings.

Opening and closing roads

75. (1) A council may, by by-law, provide for the opening and closing of municipal roads in accordance with this Act.

Right to compensation and access

(2) No municipal corporation shall close a municipal road if it prevents a person from entering or leaving his or her real property or residence, unless the municipal corporation provides the person with

- (a) reasonable compensation; and
- (b) other convenient means of access.

ROADS

PROPERTY

Authority

69. (1) A council may make by-laws under this Part in respect of the following roads in the municipality:

- (a) a road shown on a plan of survey registered under the *Land Titles Act*;
- (b) a road on public land that is designed or intended for or used by the public but not shown on a plan of survey registered under the *Land Titles Act*;
- (c) a road on private land dedicated for public use by the owner by instrument in writing and adopted as a municipal road by by-law;
- (d) a road maintained at the expense of the municipal corporation on a frozen body of water or water course;
- (e) a road outside the municipality and designated as a municipal road by the Minister, by order, on the recommendation of the Executive Council

Primary highway

(2) No council may make by-laws under this Part in respect of a primary highway designated under the *Public Highways Act*, except in accordance with an agreement made under that Act.

R.S.N.W.T. 1988, c. 8(Supp.), s. 201.

Provisions applicable to Fort Simpson

130.1 (1) Sections 131 and 132 apply only to the Village of Fort Simpson.

Provisions applicable generally

(2) Sections 132.1 to 132.4 apply to all municipal corporations other than the Village of Fort Simpson. added, S.N.W.T. 1994, c. 4, s. 3.

Powers respecting property

131. (1) A municipal corporation may acquire, hold, develop and dispose of real and personal property for municipal purposes.

Procedural by-law

(2) A council may, by by-law, provide for the acquisition, holding and disposal of real and personal property belonging to the municipal corporation.

Acquisition and disposal of real property

(3) The acquisition and disposal of real property belonging to the municipal corporation must be done by by-law.

Prohibition

(4) No person shall sell or dispose of any property belonging to the municipal corporation except in accordance with

- (a) a by-law made under subsection (2); and
- (b) subsection (3).

is deemed, for the purposes of this Act, to be a municipal purpose.

added, S.N.W.T. 1994, c. 4, s. 3.1.

Real property

132.1 (1) A municipal corporation may, for a municipal purpose,

- (a) purchase, lease or otherwise acquire real property;
- (b) use, hold or develop real property belonging to the municipal corporation; or
- (c) subdivide real property belonging to the municipal corporation in accordance with the *Planning Act*.

Prohibition on exemptions

133. No council has the power to grant a specific person an exemption from

- (b) the application of a by-law,

unless specifically authorized by an Act or regulation.

LIMITATIONS

PART VII

GENERAL AND TRANSITIONAL

Regulations

212. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing the forms that are necessary or advisable in carrying out the provisions of this Act; and

- (b) prescribing any matter or thing that by this Act may or is to be prescribed.

Continuation of municipal corporations

213. Every city, town and village existing under the *Municipal Act*, R.S.N.W.T. 1974, c.M-15, immediately before January 1, 1988, shall continue under this Act.

Continuation of by-laws, resolutions, rights and obligations

214. (1) Every by-law, resolution, contract, licence, right or obligation of a municipal corporation that existed immediately before January 1, 1988, shall continue in effect, to the extent they are not inconsistent with this Act, until they expire or are terminated or repealed.

Disposition of real property

(2) A municipal corporation may sell, lease or otherwise dispose of real property belonging to the municipal corporation where

- (a) the real property is not required for a municipal purpose; or
- (b) the disposition of the real property is necessary for or promotes a municipal purpose.

Municipal purpose

(3) For greater certainty, the development or subdivision of real property belonging to the municipal corporation

- (a) for subsequent sale, lease or other disposition, and
- (b) for residential, commercial, industrial, institutional or other use,

The above excerpts of the *Cities, Towns and Villages Act* are from chapter C-8 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- R.S.N.W.T. 1988, c. 8(Supp.), s. 201; RA 26.10.88; CIF 19.07.93 (SI-008-93).
- R.S.N.W.T. 1988, c. 31(Supp.); RA 02.11.89.
- R.S.N.W.T. 1988, c. 46(Supp.), s. 29; RA 02.11.89.
- R.S.N.W.T. 1988, c. 72(Supp.); RA 29.10.90.
- S.N.W.T. 1994, c. 4; RA 17.03.94; CIF 01.05.94 (SI-006-94).
- S.N.W.T. 1994, c. 22; RA 21.10.94.
- S.N.W.T. 1995, c. 11; RA 24.02.95.

Commissioner's Land Act

Excerpts from
Chapter C-11, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"administration agreement"

"administration agreement" means an agreement referred to in paragraph 3(1)(a);

"Commissioner's Land"

"Commissioner's land" means lands to which this Act applies;

"judge"

"judge" means a judge of the Supreme Court.

S.N.W.T. 1994, c. 23, s. 2.

(b) a permit authorizing the removal of granular materials from a quarry on Commissioner's land.

Quarries

(1.1) For greater certainty, the Commissioner may, under subsection (1), authorize a lease or an administration agreement that provides for the establishment, operation and restoration of a quarry on Commissioner's land and for the issuance of a permit referred to in paragraph 3(1)(b).

Agreements

(2) Agreements providing for the disposition of Commissioner's land must be

- (a) in writing;
- (b) signed by the Commissioner or the authorized agent of the Commissioner; and
- (c) sealed with the Seal.

APPLICATION

Lands to which Act applies

2. This Act applies in respect of

- (a) lands acquired by the Territories with Territorial funds before, on or after June 27, 1969,
- (b) public lands the administration of which has before, on or after June 27, 1969, been transferred by the Governor in Council to the Territories,
- (c) all roads, streets, lanes and trails on public lands, and
- (d) lands acquired by the Territories pursuant to tax sale proceedings,

but does not apply in respect of any mines or minerals under or within such lands.

Permits need not be sealed

(2.1) Paragraph (2)(c) does not apply to a permit referred to in paragraph (1)(b).

Plan of survey

(3) No Commissioner's land shall be sold until a duly approved plan of survey of the land has been filed in the land titles office for the registration district in which the land is located.

R.S.N.W.T. 1988, c. 8(Supp.), s. 203;
S.N.W.T. 1994, c. 23, ss. 3 and 3.1.

DISPOSITION OF COMMISSIONER'S LAND

Disposition of Commissioner's land

3. (1) Subject to this Act, the Commissioner may authorize the sale, lease or other disposition of Commissioner's land, including

- (a) an agreement delegating responsibility for the administration of Commissioner's land to a municipal corporation or any other person; and

Powers of Commissioner

4. The Commissioner may

- (a) order the withdrawal of any tract or tracts of Commissioner's land from disposal under this Act on setting out the reasons for withdrawal in the order; and
- (b) set apart and reserve Commissioner's land for public or other purposes.

TRESPASS ON COMMISSIONER'S LAND

Application for summons to vacate Commissioner's land

5. (1) Where

(a) under this Act, the right of a person to use, possess or occupy Commissioner's land has been forfeited, or

(b) in the opinion of the Commissioner, a person is wrongfully or without lawful authority, using, possessing or occupying Commissioner's land,

and that person continues to use, possess or occupy or fails to deliver up possession of the Commissioner's land, an officer of the Government of the Northwest Territories authorized by the Commissioner for that purpose may apply to a judge for a summons directed to that person calling on that person

(c) to vacate without delay or abandon and cease using, possessing or occupying the Commissioner's land, or

(d) within 30 days after service of the summons on that person, to show cause why an order or warrant should not be made or issued for that person's removal from the Commissioner's land.

MISCELLANEOUS

Receipt for fees on application

7. A receipt for payment made on the filing of an application to purchase or lease land does not entitle the person making the payment to take, occupy or use the land described in the receipt.

OFFENSES AND PUNISHMENT

Purchase of land by government officers and employees

9. (1) No officer or employee of or under the Government of the Northwest Territories shall purchase or acquire Commissioner's land or any interest in Commissioner's land without the approval of the Commissioner.

APPEAL

Appeal

11. An order or judgment of a judge in an action or proceeding under this Act is subject to an appeal by a party to the action or proceeding in the same manner as any other order or judgment of a judge.

REGULATIONS AND ORDERS

Regulations

12. The Commissioner, on the recommendation of the Minister, may make regulations

(a) authorizing a person to make any disposition of Commissioner's land referred to in subsection 3(1) subject to any prescribed limitations and conditions;

(b) respecting the limitations and conditions that are applicable to any disposition of Commissioner's land referred to in subsection 3(1);

(b.3) respecting the prices, fees, rents, royalties and other charges payable in respect of or under any disposition of Commissioner's land referred to in subsection 3(1);

(b.4) respecting the protection, control and use of Commissioner's land generally;

(c) prescribing a tariff of fees for copies of maps, plans, field notes, documents, papers and other records pertaining to Commissioner's land, for the preparation of documents evidencing a sale, lease or other disposition of Commissioner's land and for the registration of any documents pertaining to Commissioner's land; and

(d) respecting the forms of leases, agreements for sale, licences and other documents required for use under this Act.

S.N.W.T. 1994, c. 23, s. 5.

Regulations and orders

13. The Commissioner, on the recommendation of the Minister, may make regulations and orders

(a) respecting any question affecting Commissioner's land under which persons designated in the regulations or orders may inquire into a question affecting Commissioner's land and may, for the purposes of the inquiry, summon and bring before them any person whose attendance they consider necessary to the inquiry, examine that person under oath, compel the production of documents and do all things necessary to provide a full and proper inquiry; and

(b) as are considered necessary for carrying out the purposes and provisions of this Act.

The above excerpts of the *Commissioner's Land Act* are from chapter C-11 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- R.S.N.W.T. 1988, c. 8(Supp.), s. 203; RA 26.10.88; CIF 19.07.93 (SI-008-93).
- S.N.W.T. 1994, c. 23; RA 21.10.94; CIF 21.10.94 ex ss. 2, 3 and 4 (s. 7);
ss. 2, 3, and 4 CIF 27.06.69 (s. 7).

Condominium Act

Excerpts from
Chapter C-15, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"bare land unit"

"bare land unit" means a part of the land included in a plan and designated as a unit by horizontal boundaries only without reference to any buildings and, unless otherwise shown on the plan, comprises

(a) all of the space vertically above and below those boundaries, and

(b) all of the material parts of the land within the space referred to in paragraph (a) at the time the declaration and plan are registered;

"buildings"

"buildings" means the buildings included in a property;

"by-law"

"by-law" means a by-law of a corporation;

"claim"

"claim" includes a right, title, interest, encumbrance or demand of any kind affecting land, but does not include the interest of an owner in his or her unit and common interest;

"common elements"

"common elements" means all the property except the units;

"common interest"

"common interest" means the interest in the common elements appurtenant to a unit;

"corporation"

"corporation" means a corporation created by subsection 12(1);

"declaration"

"declaration" means a declaration referred to in section 5 and includes any amendments to a declaration;

"encumbrance"

"encumbrance" means a claim that secures the payment of money or the performance of any other obligation and includes a charge, a mortgage, a lien or an easement;

"land"

"land" means land in fee simple that is administered under the provisions of the *Land Titles Act*;

"plan"

"plan" means the plan referred to in section 6 and includes any amendments to it;

"property"

"property" means the land and interests appurtenant to the land described in the plan or subsequently added to the common elements;

"unit"

"unit" means a part of the land included in a plan and designated as a unit by the plan, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and plan are registered, and includes a bare land unit.

S.N.W.T. 1991-92, c. 36, s. 2.

Meaning of other expressions

2. (1) Words and expressions used in this Act and not defined in section 1 have the meanings assigned to them under the *Land Titles Act*.

Ownership of space

(2) For the purposes of this Act, the ownership of land includes the ownership of space.

S.N.W.T. 1991-92, c. 36, s. 3.

OBJECTS OF ACT

Objects

3. The objects of this Act are to facilitate the division of property into parts that are to be owned individually, and parts that are to be owned in common, and to provide for the use and management of such properties and to expedite dealings with such properties, and this Act shall be construed in a manner to give the greatest effect to these objects.

DECLARATIONS AND PLANS

Who may register declarations

4. (1) A declaration and plan may be registered by or on behalf of the owner in fee simple of the land described in the plan.

Effect of registration

(2) On registration of a declaration and plan, the property described in the plan is governed by this Act and the registrar shall

- (a) issue a certificate of title in the name of the corporation, as provided below, which shall set out that the certificate of title is issued pursuant to this Act;
- (b) issue a separate certificate of title in the name of each owner for each unit described in the plan, which shall set out the proportion of the common interest appurtenant to the unit, and that the certificate of title is issued pursuant to this Act;
- (c) keep an index to be known as the Condominium Corporations Index; and
- (d) keep a register to be known as the Condominium Register in which declarations, plans, by-laws, notices of termination and other instruments respecting land governed by this Act shall be registered, and the registration recorded.

Requirements for registration

- 5.(1) A declaration shall not be registered unless
- (a) title to the land described in the declaration is registered under the *Land Titles Act*;
 - (b) it is executed by the owner of the property;
 - (c) it has been approved as to form by the registrar;
 - (d) it contains the legal description of the land that is the subject of the declaration;
 - (e) it contains a statement that the land and interest appurtenant to the land described in the plan is to be governed by this Act;
 - (f) it contains the consent of all persons having registered encumbrances against the land or interests appurtenant to the land described in the plan;
 - (g) it contains a statement expressed in percentages allocated to the units of the proportions in which the owners are to contribute to the common expenses and to share in the common interest;
 - (h) where there are one or more bare land units, it
 - (i) complies with subsection 23(6), and

- (ii) contains a description of the manner of determining values of all units if the property ceases to be governed by this Act; and

- (i) it contains an address for service.

Additional matters that declaration may contain

(2) In addition to the matters mentioned in subsection (1), a declaration may contain

- (n) a specification of the majority required for a sale of the property or a part of the common elements;
- (p) any other matters concerning the property; and
- (q) any or all of the matters mentioned in paragraphs (a) to (p).

Amendment of declaration

(3) All matters contained in a declaration, except the address for service, may be amended only with the written consent of all owners and all persons having registered encumbrances against the units and common interests.

Registration of amendment

(4) Where a declaration is amended, the corporation shall register a copy of the amendment

- (a) executed by all the owners and all persons having registered encumbrances against the units and common interests, or
- (b) accompanied by a certificate under the seal of the corporation certifying that all the owners and all persons having registered encumbrances against the units and common interests have consented in writing to the amendment,

and until the copy is registered, the amendment is ineffective.

S.N.W.T. 1991-92, c. 36, s. 4.

Definitions

6. (1) In this section,

"architect"

"architect" means a person who is authorized to practise as an architect in a province;

"surveyor"

"surveyor" means a Canada Lands Surveyor as defined in the *Canada Lands Surveys Act*.

Contents of plan

(2) Subject to subsection (3), a plan shall delineate the perimeter of the horizontal surface of the land, and the perimeter of the buildings in relation to the perimeter of the surface of the land, and must contain

- (a) structural plans of the buildings;

- (b) a specification of the boundaries of each unit by reference to the buildings;
- (c) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units;
- (d) a certificate of a surveyor certifying that the surveyor was present at and personally superintended the survey represented by the plan, and that the survey and plan are correct;
- (e) a certificate of an architect certifying that the buildings have been constructed and that the diagrams of the units are substantially accurate, and substantially in accordance with the structural plans; and
- (f) a description of any interest appurtenant to the land that is included in the property.

Bare land unit

(3) The requirement in subsection (2) that a plan shall delineate the perimeter of the buildings in relation to the perimeter of the surface of the land and paragraphs (2)(a), (b) and (e) do not apply to a plan in respect of a bare land unit.

Monuments

(4) The horizontal boundaries of a bare land unit shall be established by monuments.

Approval of plan

(5) A plan or an amending plan shall not be registered unless the plan or amending plan

- (a) has been approved by the Minister responsible for the *Planning Act* or a person designated by the Minister to approve such plans; and
- (b) has been prepared in accordance with the prescribed procedures and meets the prescribed requirements.

Amendment of plan

(6) The plan may be amended only with the written consent of all owners and all persons having registered encumbrances against the units and common interests.

Registration of amendment

(7) Where a plan is amended, the corporation shall register a copy of the amended plan either

- (a) executed by all the owners and all persons having registered encumbrances against the units and common interests, or
- (b) accompanied by a certificate under the seal of the corporation certifying that all the owners and all persons having registered encumbrances against the units and common interest have consented in writing to the amendment,

and until the copy is registered, the amendment is ineffective.

S.N.W.T. 1991-92, c. 36, s. 5.

UNITS AND COMMON INTERESTS**Nature of units and common interests**

7. (1) Units and common interests are real property for all purposes and the unit and common interest appurtenant to it may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as any land the title to which is registered under the *Land Titles Act*.

Ownership of units

(2) Subject to this Act, the declaration and the by-laws, each owner is entitled to exclusive ownership and use of his or her unit.

Dangerous activities

(3) No condition shall be permitted to exist, and no activity shall be carried on, in any unit or the common elements that is likely to damage the property.

Right to enter

(4) The corporation, or any person authorized by the corporation, may enter any unit at any reasonable time to carry out the objects and perform the duties of the corporation.

S.N.W.T. 1991-92, c. 36, s. 6.

Ownership

8. (1) The owners are tenants in common of the common elements.

Common elements

(2) An undivided interest in the common elements is appurtenant to each unit.

Use of common elements

(3) Subject to this Act, the declaration and the by-laws, each owner may make reasonable use of the common elements.

Unit and common elements

(4) Except as provided by this Act, no share in the common elements shall be dealt with except with the consent of the owner, and any instrument dealing with a unit shall operate to deal with the share of the owner in the common elements without express reference to the share of the owner.

Partition and division

(5) The common elements shall not be partitioned or divided except as provided in this Act.

Encumbrances

9. (1) No encumbrance is enforceable against the common elements after the declaration and plan are registered.

Saving

(2) An encumbrance that, except for subsection (1), would be enforceable against the common elements is enforceable against all the units and common interests.

Easement appurtenant to units

11. (1) The following easements are created and are appurtenant to each unit:

- (a) where a building or any part of a building
 - (i) moves after registration of the declaration and plan, or
 - (ii) after having been damaged and repaired, is not restored to the position occupied at the time of registration of the declaration and plan,

an easement for exclusive use and occupation in accordance with this Act, the declaration and the by-laws, over the space of the other units and common elements that would be space included in the unit if the boundaries of the unit were determined by the position of the buildings from time to time after registration of the plan and not at the time of registration;

(b) an easement for the provision of any service through any installation in the common elements or any other unit;

(c) an easement for support and shelter by the common elements and any other unit capable of providing support or shelter.

Easements appurtenant to common elements

(2) The following easements are created and are appurtenant to the common element:

- (a) an easement for the provision of any service through any installation in any unit;
- (b) an easement for support and shelter by any unit capable of providing support and shelter.

Bare land unit

(3) Notwithstanding subsections (1) and (2)

- (a) paragraph (1)(a) does not apply to a bare land unit;
- (b) paragraphs (1)(b) and (2)(a) do not apply to a bare land unit unless the installation was in existence at the time the owner of the bare land unit became the owner of the unit; and

(c) the easements for shelter provided in paragraphs (1)(c) and (2)(b) do not apply to a bare land unit.

Ancillary rights

(4) All ancillary rights and obligations reasonably necessary to make easements effective shall apply in respect of easements implied or created by this Act

CONDOMINIUM CORPORATIONS

Creation of condominium corporation

12. (1) On registration of a declaration and plan, there is created a corporation without share capital having a name composed of the following components:

- (a) a place or district;
- (b) the words "Condominium Corporation";
- (c) the abbreviation "No." together with a number that is the next available consecutive number in the Condominium Corporation Index.

Members

(2) The members of a corporation are the owners and they shall share the assets of the corporation in the proportions as provided in the declaration.

Objects of corporation

(4) The objects of a corporation are to manage the property of the owners and any assets of the corporation.

Responsibilities of corporation

(5) A corporation is responsible for the control, management and administration of the common elements.

TERMINATION

Notice of termination after substantial damage

25. (1) Where the owners do not vote for repair on a vote under subsection 24(2), the corporation shall register a notice of termination with the registrar within 10 days after the vote.

Vote for repairs

(2) Where there has been no vote within 60 days after the determination that there has been substantial damage under subsection 24(1), the corporation shall register a notice of termination within 10 days after the expiration of the 60-day period.

Effect of registration of notice

(3) On the registration of a notice of termination under subsection (1) or (2),

(a) the government of the property by this Act is terminated;

(b) except where the plan defines one or more bare land units, the owners are tenants in common of the land and interests appurtenant to the land described in the plan in the same proportions as their common interests;

(c) where the plan defines one or more bare land units, the owners are tenants in common of the land described in the plan and any interests appurtenant to the land in proportion to the value of each unit and the appurtenant common interest determined in accordance with the manner described in the declaration for determining value in the event that the property ceases to be governed by this Act;

(d) claims against the land and the interests appurtenant to the land described in the plan created before the registration of the declaration and plan are as effective as if the declaration and plan had not been registered;

(f) all claims against the property created after the registration of the declaration and plan, other than the encumbrance mentioned in paragraph (e) are extinguished.

Termination by sale

26. (1) Sale of the property or any part of the common elements may be authorized

(a) by a vote of owners who own 66 2/3 %, or such greater percentage as is specified in the declaration, of the common elements;

(b) by the consent of the persons having registered claims against the property or the parts of the common elements, as the case may be, created after the registration of the declaration and plan.

S.N.W.T. 1991-92, c. 36, s. 8.

Termination by notice without sale

28. (1) Termination of the government of the property under this Act may be authorized

(a) by a vote of the owners who own 66 2/3 %, or such greater percentage as is specified in the declaration, of the common elements; and

(b) by the consent of the persons having registered claims against the property created after the registration of the declaration and plan.

Notice of termination

(2) Where termination of the government of the property under this Act is authorized under subsection (1), the corporation shall register a notice of termination that shall

(a) be executed by all the owners and all the persons having registered claims against the property created after the registration of the declaration and plan; or

(b) be executed by the corporation and accompanied by a certificate under the seal of the corporation certifying that the required percentage of owners as stipulated in this Act or the declaration have voted in favour of the termination of the government of the property, and all the persons having registered claims against the property created after the registration of the declaration have consented in writing to the termination of the government of the property.

Effect of registration

(3) On registration of a notice of termination under subsection (2), the provisions of subsection 25(3) apply.

REGULATIONS

Regulations

31. For the purpose of carrying out the provisions of this Act, the Commissioner, on the recommendation of the Minister, may make regulations not inconsistent with any other provision of this Act

(a) prescribing forms for use under this Act;

(b) prescribing rules to cover cases for which no provision is made under this Act; and

(c) respecting the procedures for the preparation of and the requirements for plans submitted for registration under this Act.

S.N.W.T. 1991-92, c. 36, s. 9.

The above excerpts of the *Condominium Act* are from chapter C-15 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- S.N.W.T. 1991-92, c. 36; RA 10.12.92; CIF 19.07.93 s. (10).

Evidence Act

Excerpts from
Chapter E-8, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"action"

"action" includes any civil proceeding, inquiry, arbitration and a prosecution for an offence committed under an Act or a by-law or regulation made under an Act, and any other prosecution or proceeding authorized or permitted to be tried, heard, had or taken by or before a Court under the law of the Territories;

"Court"

"Court" includes an arbitrator, umpire, commissioner, judge, justice of the peace and any other officer or person having by law or by consent of parties authority to hear, receive and examine evidence;

"document"

"document" includes book, map, plan, drawing and photograph;

"dominion"

"dominion" includes kingdom, empire, republic, commonwealth, state, province, the Territories, the Yukon Territory, territory, colony, possession and protectorate and, where parts of a dominion are under both a central and a local legislature, includes all parts under the central legislature and each part under a local legislature;

"statement"

"statement" includes any representation of fact, whether made in words or otherwise;

"statutory declaration" or "solemn affirmation"

"statutory declaration" or "solemn declaration" means a solemn declaration in the form and manner provided in the *Canada Evidence Act*.

COMPETENCY OF WITNESSES AND PRIVILEGES

Crime or interest

2. A person is not incompetent to give evidence by reason of crime or interest.

Definition of "witness"

7. (1) In this section, "witness" includes a person who, in the course of an action, is examined orally on discovery or who is cross-examined on an affidavit made by the person, or who answers any interrogatories or makes an affidavit as to documents.

Incriminating questions

(2) A witness shall not be excused from answering a question or producing a document on the ground that the answer to the question or the production of the document may tend to incriminate the witness, or may tend to establish the liability of the witness to an action at the instance of the Crown or of any person.

Evidence not to be used

(3) A witness who gives evidence in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

ATTENDANCE OF WITNESS

Witness fees and expenses

8. No person is obliged to attend or give evidence in an action unless he or she is tendered proper witness fees and necessary travelling expenses.

EXPERT EVIDENCE

Number of expert witnesses

9. Where it is intended by any party to an action to examine as witnesses professional or other experts entitled according to the law or practice to give opinion evidence, not more than three of such witnesses may be called by either side to give opinion evidence on any issue in the action without the leave of the Court.

OATHS AND AFFIRMATIONS

Power of Court

20. (1) Every Court has power to administer or cause to be administered an oath or affirmation to every witness who is called to give evidence before the Court.

Power of other persons

(2) Where an oath, affirmation or declaration is directed to be made before a person, he or she has full power and authority to administer it and to certify to its having been made.

Belief in binding effect of oath

24. Where an oath has been administered and taken, the fact that the person to whom it was administered and by whom it was taken did not at the time of taking the oath believe in the binding effect of the oath does not, for any purpose, affect the validity of the oath.

EVIDENCE OF OTHER PUBLIC
AND CORPORATION DOCUMENTS*Definition of "business"*

47. (1) In this section, "business" includes every kind of business, profession, occupation or calling, whether carried on for profit or not.

Proof of record

(2) A record in a business of an act, condition or event, is, insofar as it is relevant, admissible in evidence if

- (a) the custodian of the record or other qualified person testifies to its identity and the mode of its preparation, and to its having been made in the usual and ordinary course of business, at or near the time of the act, condition or event; and
- (b) in the opinion of the Court, the sources of information, mode and time of preparation of the record were such as to justify its admission.

Definitions

48. (1) In this section,

"person"

"person" includes

- (a) the Government of the Northwest Territories, the Government of Canada and the government of a province or the Yukon Territory, and any department, commission, board or branch of any such government,
- (b) a corporation, and

(c) the heirs, executors, administrators or other legal representatives of a person;

"photographic film"

"photographic film" includes any photographic plate, microphotographic film and photostatic negative, and "photograph" has a corresponding meaning.

Admissibility of photograph print

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book, or entry in it kept or held by a person

(a) is photographed in the course of an established practice of the person of photographing objects of the same or a similar class in order to keep a permanent record of them, and

(b) is destroyed by or in the presence of the person or of one or more of his or her employees or delivered to another person in the ordinary course of business or lost,

a print from the photographic film is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

Power of Court to refuse to admit print

(3) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement or other executed or signed document was destroyed as described in paragraph (2)(b) before the expiration of six years from

(a) the date when in the ordinary course of business either the object or the matter to which it related ceased to be treated as current by the person having custody or control of the object, or

(b) the date of receipt by the person having custody or control of the object of notice in writing of any claim in respect of the object or matter before the destruction of the object,

whichever is the later date, the Court may refuse to admit in evidence under this section a print from a photographic film of the object.

Proof of compliance with conditions

(5) Proof of compliance with the conditions imposed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public and unless the Court otherwise orders, a notarial copy of any such affidavit is admissible in evidence in place of the original affidavit.

REGISTERED INSTRUMENTS

Copies of registered instruments as evidence

53. (1) In an action where it would be necessary as to produce and prove an original document that has been deposited, filed, kept or registered in a Court registry or in any public office or Court in the Territories, in order to establish the document and the contents of the document, the party intending to prove the original document may give notice to the opposite party at least 10 days before the trial or other proceeding in which the proof is intended to be adduced, that he or she intends at the trial or other proceeding to give in evidence as proof of the original document, a copy of the original document certified by the registrar of the office where it is deposited, filed, kept or registered, under the signature and seal of office of the registrar.

Sufficiency of copy as evidence of original

(2) A copy certified pursuant to subsection (1) is sufficient evidence of the original document and of its validity and contents, without proof of the signature or seal of office of the registrar, and without proof that the document was so deposited filed, kept or registered, unless the party receiving the notice, within four days after its receipt, gives notice that he or she disputes the validity or contents of the original document.

Costs

(3) The cost resulting from the production or proof of the original document is in the discretion of the Court.

R.S.N.W.T. 1988, c. 8(Supp.), s. 207.

MISCELLANEOUS PROVISIONS
AS TO DOCUMENTS AND EVIDENCE*Construction of this Act*

60. The provisions of this Act shall be deemed to be in addition to and not in derogation of and powers of proving documents given by any other law.

OATHS, AFFIDAVITS, AFFIRMATIONS
AND STATUTORY DECLARATIONS*Oaths, etc., for use in Territories*

65. (1) An oath, affidavit, affirmation or statutory declaration for use in the Territories may be administered, sworn, affirmed or made within the Territories before

- (a) a judge of the Supreme Court, territorial judge or justice of the peace in the Territories within his or her jurisdiction;

- (b) the clerk or deputy clerk of the Court;
- (c) a commissioner for taking oaths within the Territories;
- (d) a notary public appointed for the Territories;
- (e) a barrister or solicitor duly admitted and entitled to practise as such in the Territories;
- (f) a sheriff; or
- (g) a member of the Royal Canadian Mounted Police.

Designation of office

(2) Every person referred to in paragraphs (1)(a) to (g) shall designate his or her office below his or her signature to the jurat on an oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made before him or her.

Oaths, etc., administered by commissioned officers

66. (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made within or outside the Territories before a person who holds a commission as an officer in the Canadian Forces and is on full-time service is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Territories before a commissioner for taking oaths within the Territories.

Admissibility

(2) A document that purports to be signed by a person referred to in subsection (1) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before that person and on which the rank and unit of that person are shown below his or her signature is admissible in evidence without proof of the signature or of the rank or unit of that person or that he or she is on full-time service.

Oaths, etc., made outside Territories

67. An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside the Territories before

- (a) a judge, a magistrate or an officer of a Court of justice or a commissioner authorized to administer oaths in a Court of justice,
- (b) the mayor or chief magistrate of a city, borough or town corporate certified under the seal of the city, borough or town corporate,
- (c) officers of any of Her Majesty's diplomatic or consular services exercising their functions in any foreign country, including ambassadors, envoys,

ministers, chargés d'affaires, counsellors, secretaries, attachés, consuls-general, consuls, vice-consuls, pro-consuls, consular agents, acting consuls-general, acting consuls, acting vice-consuls and acting consular agents,

(d) officers of the Canadian diplomatic, consular and representative services exercising their functions in any foreign country or in any part of Her Majesty's dominions outside Canada, including, in addition to the diplomatic and consular officers mentioned in paragraph (c), high commissioners, permanent delegates, acting permanent delegates, counsellors and secretaries,

(e) Canadian Government Trade Commissioners and Assistant Canadian Government Trade Commissioners exercising their functions in any foreign country or in any part of Her Majesty's dominions outside Canada,

(f) a notary public and certified under his or her signature and official seal,

(f.1) a person authorized under the laws of Quebec to administer oaths in that province, or

(g) a commissioner authorized by the laws of the Territories to take such affidavits,

are as valid and effectual and are of the same force and effect to all intents and purposes as if the oath, affidavit, affirmation or statutory declaration had been duly administered, sworn, affirmed or made in the Territories before a commissioner for taking affidavits within the Territories or other competent authority of the same nature.

S.N.W.T. 1995, c. 11, s. 19.

Certain documents admitted in evidence without proof of signature, etc.

68. Any document purporting to be signed by a person referred to in section 67, and

(a) in the case of a person referred to in paragraph 67(b) or (f), purporting to have impressed on it or attached to it the seal required by paragraph 67(b) or (f), or

(b) in the case of a person referred to in paragraph 67(c), (d) or (e), purporting to have impressed on it or attached to it his or her seal of office, if any,

in testimony of the oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made by or before that person, shall be admitted in evidence without proof of the signature, or seal and signature, or of the official character of that person.

Who may administer oaths

70. Where, under any law, evidence under oath is authorized or required to be taken, or an oath is authorized or directed to be made, taken or administered, the oath may be administered and a certificate of its having been made, taken or administered may be given by anyone authorized by that law to take the evidence or by anyone authorized to take affidavits under this Act having authority or jurisdiction within the place where the oath is administered.

COMMISSIONERS FOR OATHS
AND NOTARIES PUBLIC

Commissioners for Oaths

Appointments

73. The Commissioner may, by one or more commissions, appoint as many persons as the Commissioner thinks fit and necessary to take and receive oaths, affidavits or affirmations either within or outside the Territories for use within the Territories.

Powers of commissioner for oaths

75. Every commissioner for oaths may take any affidavit in any manner concerning any legal proceeding in the Territories or in which the commissioner for oaths is authorized by any law or Act, although the application or matter is not made or pending in any Court.

Noting date of expiration of commission

78. (1) A commissioner for oaths whose commission is one that expires under this Act, shall write or stamp on every affidavit, declaration or certificate taken or given by the commissioner for oaths, the date on which his or her commission expires.

Offence and punishment

(2) Every commissioner for oaths who fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$10.

Notaries Public

Powers of notary public

83. Every notary public shall have, use and exercise the power of administering oaths attested by his or her signature and seal, attesting commercial instruments brought before the notary public for public protestation and giving of notarial certificates of his or her acts, and

may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the exercise of these powers.

Power of notary as commissioner for oaths

84. A notary public has and may exercise the powers of a commissioner for oaths and where the notary administers an oath or takes an affidavit or declaration within the Territories, it is not necessary to its validity that the notary affix his or her seal to it.

Duties of notary public

85. Every oath or declaration shall be made in person by the deponent or declarant in the presence of the notary public administering the oath or declaration who shall satisfy himself or herself of the genuineness of the signature of the deponent or declarant, and shall administer the oath or declaration in the manner required by law before he or she signs the jurat or declaration.

The above excerpts of the *Evidence Act* are from chapter E-8 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- R.S.N.W.T. 1988, c. 8(Supp.), s. 207; RA 26.10.88; CIF 19.07.93 (SI-008-93).
- R.S.N.W.T. 1988, c. 57(Supp.); RA 10.04.90.
- S.N.W.T. 1995, c. 11, s. 19; RA 24.02.95.

Expropriation Act

Excerpts from
Chapter E-11, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"expropriated"

"expropriated" means taken by an expropriating authority under this Act;

"expropriated interest"

"expropriated interest" means a right, estate or interest that is lost, in whole or in part, by the registration of a notice of confirmation under subsection 16(2);

"expropriating authority"

"expropriating authority" means

- (a) the Commissioner,
- (b) a municipal corporation, or
- (c) a person empowered to acquire land by expropriation;

"land"

"land" includes buildings, structures and other things in the nature of fixtures, but does not include mines and minerals;

"notice of confirmation"

"notice of confirmation" means a notice of confirmation referred to in subsection 16(1);

"notice of intention"

"notice of intention" means a notice of intention referred to in section 5:

"owner"

"owner", in relation to an expropriated interest, includes the owner of a leasehold interest;

"register"

"register" includes file or deposit;

"Registrar"

"Registrar" means a Registrar of Land Titles or other officer with whom the title to or interest in land is registered, recorded or kept.

R.S.N.W.T. 1988, c. 8(Supp.), s. 209.

Service on person

2. (1) For the purposes of this Act, where a notice or other document or a copy of a notice or other document is required or authorized to be sent to a

person other than an expropriating authority, the document or copy

(a) must be

(i) sent to the person by registered mail addressed to the person at his or her last known address, or

(ii) if the address of the person is unknown, published in at least one issue of a publication in general circulation within the area in which the land to which the document relates is situated; and

(b) shall be deemed to have been sent to the person at the time when it was mailed or first published in accordance with paragraph (a).

Service on expropriating authority

(2) Where an objection or other document is to be served on an expropriating authority,

(a) the document must be left at or sent by registered mail to the office of the expropriating authority in order to effect service; and

(b) service of a document by registered mail under paragraph (a) shall be deemed not to be effected until the document is received at the office of the expropriating authority.

PART I

ACQUISITION AND ABANDONMENT OF LAND

Authority to expropriate

3. Any interest in land, including any interest referred to in subsection 5(3), that

(a) in the opinion of the Legislature is required by the Government of the Northwest Territories for a public work or other public purpose, or

(b) in the opinion of an expropriating authority, other than the Commissioner, is required for the lawful purposes of the authority,

may be expropriated by the Commissioner or other expropriating authority, as the case may be, in accordance with this Act.

Interests required by expropriating authority

4. (1) All of the interests to which a notice of intention relates or a more limited interest only to which a notice of confirmation relates shall be deemed to be an interest that, in the opinion of the expropriating authority, is required by the expropriating authority for a purpose in respect of which the power to expropriate may be exercised.

Interests not required by expropriating authority

(2) An interest stated in a notice of abandonment to be abandoned or the remainder of the interest shall be deemed to be an interest that, in the opinion of the expropriating authority, is not or is no longer required by the expropriating authority for a purpose in respect of which the power to expropriate may be exercised.

Notice of intention to expropriate

5. (1) Where, in the opinion of an expropriating authority, an interest in land is required by the expropriating authority for any of the purposes described in paragraph 3(a) or (b), the expropriating authority may register in the office of the Registrar for the registration district in which the land is situated

- (a) a notice of intention to expropriate the interest; and
- (b) a plan of the land to which the notice relates.

Nature of interest to be expropriated

(3) A notice of intention may set out as the nature of the interest intended to be expropriated, any estate or interest in land including

- (a) an interest limited as to time or by condition or otherwise;
- (b) an easement, profit or servitude;
- (c) any right to, over or in respect of land that might be conferred by the owner of the land, whether or not the right, if conferred by the owner, could be asserted against a subsequent owner of the land;
- (d) any restriction on the use of land that might be assumed by covenant or other agreement, whether or not the restriction, if assumed by the owner of the land, could be asserted against a subsequent owner of the land; and
- (e) the exclusive possession of land for a limited time or for a definite or indefinite period, subject to the conditions or limitations specified in the notice.

Correction of notice of intention or plan

6. (1) If a notice of intention or plan registered under subsection 5(1) contains an omission or misstatement, a corrected notice of intention or plan may be registered.

Deeming provision

(2) A corrected notice of intention or plan registered under subsection (1) shall be deemed to relate back to the day on which the original notice of intention or plan was registered.

Plan

(2.1) A plan referred to in paragraph 5(1)(b) or subsection (1) must be satisfactory to the Registrar.
R.S.N.W.T. 1988, c. 8(Supp.), s. 210.

Confirmation or abandonment of intention

13. (1) Where a notice of intention is given, the expropriating authority may

- (a) confirm the intention to expropriate the interest in the land, in accordance with section 16,
 - (i) if no objection is served within the 30-day period referred to in section 8, at any time after the expiration of that period, or
 - (ii) if an objection is served within the 30-day period referred to in section 8, at any time after receiving and considering the report of a hearing officer submitted under paragraph 9(4)(e); or
- (b) at any time abandon the intention to expropriate the interest in the land.

Deeming provision

(2) If the expropriating authority has not confirmed the intention to expropriate an interest in land in accordance with section 16 within 120 days after giving the notice of intention, the expropriating authority shall be deemed to have abandoned the intention.

More limited interest

(3) If at the time of confirming an intention to expropriate an interest in land, the expropriating authority is of the opinion that a more limited interest only is required, it may confirm the intention to expropriate the more limited interest, in which case it shall be deemed to have abandoned the intention to expropriate the remainder of the original interest.

Notice of abandonment of intention

14. (1) Where an expropriating authority abandons an intention to expropriate an interest in land other than by confirming an intention to expropriate a more limited

interest in the land under subsection 13(3), it shall without delay cause a notice of abandonment of the intention to be

- (a) sent to each person referred to in subparagraph 7(1)(a)(ii);
- (b) sent to each person who served an objection; and
- (c) registered in the office of the Registrar where the notice of intention was registered.

Notice of confirmation

16. (1) An expropriating authority may confirm an intention to expropriate an interest in land to which a notice of intention relates or a more limited interest in the land by signing a notice of confirmation, stating

- (a) if the interest to be expropriated is the same as the interest to which the notice of intention relates, that the intention to expropriate the interest is confirmed; or
- (b) if the interest to be expropriated is a more limited interest than the interest to which the notice of intention relates, that the intention to expropriate the interest to which the notice of intention relates is confirmed except as expressly specified in the statement.

Registration of notice of confirmation and plan

(2) A notice of confirmation shall be registered in the office of the Registrar where the notice of intention was registered and if the land to which the notice of confirmation relates is more limited in area than the land described in the notice of intention, the expropriating authority shall cause a revised plan of the land to which the notice of confirmation relates to be registered with the notice of confirmation.

Plan

(2.1) The plan referred to in subsection (2) must be satisfactory to the Registrar.

Proper registration

(3) A document purporting to be a notice of confirmation that is registered in the office of the Registrar where the notice of intention to expropriate an interest in the land was registered shall be deemed to be a notice of confirmation of that registered in accordance with this Act.

R.S.N.W.T. 1988, c. 8(Supp.), s. 211.

Effect of registration

17. On the registration of a notice of confirmation

(a) the interest confirmed to be expropriated is absolutely vested in the expropriating authority; and

(b) any other right, estate or interest is, as against the expropriating authority or a person claiming through or under the expropriating authority, lost to the extent that the right, estate or interest is inconsistent with the interest confirmed to be expropriated.

Right to physical possession

18. (1) Notwithstanding section 17, an expropriating authority is entitled to take physical possession or make use of land to which a notice of confirmation relates to the extent of the interest expropriated only

(a) at the time of the registration of the notice of confirmation, if at that time no other person who was the owner of an interest in the land immediately before the registration of the notice of confirmation is in actual occupation of the land;

(b) at such time after the registration of the notice of confirmation as physical possession or use of the land to the extent of the interest expropriated is given up to the expropriating authority without any notice under paragraph (c) having been sent to the persons referred in that paragraph; or

(c) in any case not referred to in paragraph (a) or (b), at such time after the registration of notice of confirmation as the expropriating authority

(i) has sent a notice

(A) to each person referred to in subparagraph 7(1)(a)(ii), or

(B) where an application has been made under section 21 and has been finally disposed of, to each person adjudged to have had an interest in the land immediately before the registration of the notice of confirmation,

and the period referred to in the notice has expired or physical possession or use has been given up to the expropriating authority before the expiration of that period, and

(ii) has made an offer under section 19 to each person then entitled to compensation under this Act in respect of an interest in the land.

Contents of notice

(2) The notice referred to in subparagraph (1)(c)(i) must state that physical possession or use is required by the expropriating authority on and after the expiration of the period specified in the notice, which

must not be less than 90 days after the sending of the notice.

Application to Court

21. (1) Where, after the registration of a notice of confirmation, the expropriating authority is in doubt as to the persons who had a right, estate or interest in the land to which the notice relates or the nature or extent of the right, estate or interest, the expropriating authority may apply to the Court

- (a) to determine the state of the title to all or part of the land immediately before the registration of the notice of confirmation; and
- (b) to adjudge the persons who had a right, estate or interest in the land immediately before the registration of the notice of confirmation and the nature and extent of the right, estate or interest.

Directions of Court

(2) An application under subsection (1) shall in the first instance be made *ex parte* and the Court shall fix a time and place for the hearing of the persons concerned and give directions as to

- (a) the persons who are to be served with the notice of the hearing, the contents of the notice and the manner of service of the notice;
- (b) the material and information to be submitted by the expropriating authority or other persons; and
- (c) any other matters that the Court considers necessary.

Adjudication

(3) After the hearing referred to in subsection (2), the Court shall

- (a) adjudge for the purposes of this Act what persons had a right, estate or interest in the land to which the notice of confirmation relates immediately before the registration of the notice of confirmation and the nature and extent of the right, estate or interest; or
- (b) direct an issue or issues to be tried to enable the Court to make the adjudication referred to in paragraph (a).

Effect of adjudication

(4) Subject to variation on appeal, an adjudication made by the Court under subsection (3) finally determines for all purposes the matters referred to in paragraph (3)(a).

Notice of abandonment

22. (1) Where, before any compensation is paid in respect of an expropriated interest, the expropriating authority is of the opinion that the interest is not or is no longer required, the expropriating authority may give notice that it intends to abandon the interest or the remainder of the interest by causing a copy of the notice to be sent to each person referred to in paragraph 18(1)(c).

Election

(2) A person referred to in paragraph 18(1)(c) may, within 30 days after the day on which a copy of the notice referred to in subsection (1) was sent to the person, serve on the expropriating authority written notice that the person elects to

- (a) accept the abandonment and have the interest or remainder of the interest revert in him or her to the extent that the abandonment would operate to revert it in him or her; or
- (b) reject the abandonment.

Confirmation of abandonment

(3) Where each person to whom a copy of a notice is sent under subsection (1) elects under subsection (2) to accept the abandonment, the expropriating authority may

- (a) cause a notice of abandonment of the expropriated interest or the remainder of the expropriated interest to be sent to each of those persons; and
- (b) confirm the abandonment by causing the notice of abandonment referred to in paragraph (a) to be registered in the office of the Registrar where the notice of confirmation was registered.

Effect of confirmation of abandonment

23. Where a notice of abandonment is registered under paragraph 22(3)(b),

- (a) the interest expropriated on registration reverts in the persons from whom it was taken or the persons entitled to claim through or under them; or
- (b) if the expropriating authority retains a more limited interest in the land, the land on registration reverts in the persons referred to in paragraph (a), subject to the more limited interest in the land retained by the expropriating authority.

Signature of expropriating authority

24. A document purporting to be signed by an expropriating authority shall be deemed to have been signed by the expropriating authority.

Document certified by Registrar

25. (2) A document purporting to be certified by a Registrar to be a true copy of a notice or plan registered under this Act at a time stated in the certificate is, without proof of the official character or signature of the Registrar, evidence of the facts stated in the document and of the registration of the notice or plan at the time stated in the certificate.

R.S.N.W.T. 1988, c. 8(Supp.), s. 212.

PART IV

USE OF LANDS

Powers of expropriating authority

51. An expropriating authority or any other person with its written consent may, in respect of a work for which land may be expropriated, on seven days notice sent to the owner of the land

- (a) enter into and on any land and survey and take levels of the land and make the borings or sink the trial pits that it considers necessary;

The above excerpts of the *Expropriation Act* are from chapter E-11 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- R.S.N.W.T. 1988, c. 8(Supp.), ss. 209 - 212; RA 26.10.88; C1F 19.07.93 (SI-008-93).

Hamlets Act

Excerpts from
Chapter H-1, R.S.N.W.T. 1988
 As amended

INTERPRETATION

Definitions

1. In this Act,

"by-law"

"by-law" means a by-law made by a council under this or any other Act;

"charter community"

"charter community" means a charter community as defined in the *Charter Communities Act*;

"city"

"city" means a city as defined in the *Cities, Towns and Villages Act*;

"council"

"council" means the council of a municipal corporation;

"council member"

"council member" means a member of a council;

"hamlet"

"hamlet" means a municipal corporation with the status of a hamlet;

"mayor"

"mayor" means the presiding council member;

"municipal corporation"

"municipal corporation" means a corporation established under or continued by or under this Act as a hamlet;

"municipal road"

"municipal road" means a road in respect of which a council may make by-laws under section 69;

"municipality"

"municipality" means the geographic area of jurisdiction of a municipal corporation;

"officer"

"officer" means the senior administrative officer or an employee of a municipal corporation appointed as an officer under section 44;

"real property"

"real property" includes an interest in real property;

"resolution"

"resolution" means a resolution of a council;

"senior administrative officer"

"senior administrative officer" means the senior administrative officer of a municipal corporation appointed under subsection 43(1);

"settlement"

"settlement" means the geographic area designated as a settlement under the *Settlements Act*;

"town"

"town" means a town as defined in the *Cities, Towns and Villages Act*;

"village"

"village" means a village as defined in the *Cities, Towns and Villages Act*;

S.N.W.T. 1994, c. 5, s. 2.

PART I

INCORPORATION

Establishment of municipal corporation

4. (1) The Minister, after causing public notice to be given of the intention of the Minister and after considering any objection made under section 3, may, by order, establish a hamlet.

Content of order

(2) The order establishing a municipal corporation must

- (a) fix the name and status of the municipal corporation;
- (b) determine the boundaries of the municipality;

Request to change name

4.1 (1) A council may request the Minister to change the name of the municipal corporation.

Change of name

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, change the name of a municipal corporation and provide for any transitional matters that may be necessary.

Effect of change of name

(3) The change of name of a municipal corporation does not affect any officer, employee, by-law, resolution, asset, liability, right, duty, obligation or function of the municipal corporation.

added, R.S.N.W.T. 1988, c. 36(Supp.), s. 2.

Definitions of "municipal corporation"

5. (1) In this section, "municipal corporation" includes a charter community, village, town or city.

Change in status of municipal corporation

(2) The Minister may, on the Minister's own initiative or at the request of the council, by order,

- (a) change the status of a municipal corporation to a hamlet; and
- (b) provide for any transitional matters that may be necessary.

Saving provision for change in status

6. (1) The change in status of a municipal corporation does not affect

- (b) any by-law or resolution of the municipal corporation;

Request to vary boundaries

7. (1) A council may request the Minister to vary the boundaries of the municipality.

Variation of boundaries

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, vary the boundaries of a municipality and provide for any transitional matters that may be necessary.

Effect of variation of boundaries

(3) Where the boundaries of a municipality have been varied, all by-laws apply to the municipality as varied from the date the order made under subsection (2) takes effect.

PART II**ADMINISTRATION****OFFICERS***Senior administrative officer*

43. (1) Every council shall, by by-law, appoint a senior administrative officer.

Change in title

(3) A council may call the senior administrative officer by another name for the purposes of the municipal corporation.

Appointment and duties

44. (1) The council may, by by-law, appoint employees to be officers and authorize them to perform

- (a) any statutory duty assigned to the senior administrative officer by this Act, other than those assigned under section 47; or
- (b) any other duties the council considers necessary.

Acting officers

(2) The council may appoint employees to act on behalf of any officer where the officer is absent or unable to act.

Other duties

48. (1) The senior administrative officer or other officers that council may appoint under section 44 shall

- (a) have custody of the seal of the municipal corporation and cause it to be affixed to documents where required;
- (d) have custody of the original of every by-law of the municipal corporation;
- (e) provide copies of by-laws, minutes and other public documents of the municipal corporation in accordance with this Act;

PART III**BY-LAWS****GENERAL***Limit on power to make by-laws*

54. (1) The power of a council to make by-laws is subject to all Acts and regulations of the Territories and Canada unless an Act or regulation expressly states otherwise.

Effect of inconsistency

(2) Where a by-law is inconsistent with an Act or regulation, the by-law is of no effect to the extent of the inconsistency.

Requirements for by-laws

57. Every by-law, to be effective, must be

- (a) in writing;

- (b) under the seal of the municipal corporation;
- (c) signed by the mayor or other presiding council member; and
- (d) signed by the senior administrative officer.

Effective date of by-law

58. Subject to this Act, a by-law is effective on the date it meets the requirements of section 57 or at a later date that the by-law may fix.

Amending or repealing by-law

65. (1) Subject to this Act, a council may, by by-law, amend or repeal a by-law.

Limit on amendment or repeal

(2) The power of a council to amend or repeal a by-law is subject to the same conditions as the power to make the by-law.

ROADS

Authority over roads

69. (1) A council may make by-laws under this Part in respect of the following roads in the municipality:

- (a) a road shown on a plan of survey registered under the *Land Titles Act*;
- (b) a road on public land that is designed or intended for or used by the public but not shown on a plan of survey registered under the *Land Titles Act*;
- (c) a road on private land dedicated for public use by the owner by instrument in writing and adopted as a municipal road by by-law;
- (d) a road maintained at the expense of the municipal corporation on a frozen body of water or water course;
- (e) a road outside the municipality and designated as a municipal road by the Minister, by order, on the recommendation of the Executive Council.

Primary highway

(2) A council may make by-laws under this Part in respect of a primary highway designated under the *Public Highways Act*, except in accordance with an agreement made under that Act.

R.S.N.W.T. 1988, c. 8(Supp.), s. 213.

Incidental powers

70. A council may, by by-law,

- (a) classify municipal roads for any purpose it considers necessary;
- (b) adopt as a municipal road any road on private land dedicated for public use, by the owner by instrument in writing;
- (d) provide for the naming or numbering of municipal roads and the numbering of buildings.

Opening and closing roads

75. (1) A council may, by by-law, provide for the opening and closing of municipal roads in accordance with this Act.

Right to compensation and access

(2) No municipal corporation shall close a municipal road if it prevents a person from entering or leaving his or her real property or residence, unless the municipal corporation provides the person with

- (a) reasonable compensation; and
- (b) other convenient means of access.

PROPERTY

Provisions applicable to certain Hamlets

130.1 (1) Sections 131 and 132 apply only to the Hamlets of Fort Liard and Fort Providence.

Provisions applicable generally

(2) Sections 132.1 to 132.4 apply to all municipal corporations other than those referred to in subsection (1).

added, S.N.W.T. 1994, c. 5, s. 3.

Powers respecting property

131. (1) A municipal corporation may acquire, hold, develop and dispose of real and personal property for municipal purposes.

Procedural by-law

(2) A council may, by by-law, provide for the acquisition, holding and disposal of real and personal property belonging to the municipal corporation.

Acquisition and disposal of real property

(3) The acquisition and disposal of real property belonging to the municipal corporation must be done by by-law.

Prohibition

(4) No person shall sell or dispose of any property belonging to the municipal corporation except in accordance with

- (a) a by-law made under subsection (2); and

(b) subsection (3).

LIMITATIONS

Real property

132.1 (1) A municipal corporation may, for a municipal purpose,

- (a) purchase, lease or otherwise acquire real property;
- (b) use, hold or develop real property belonging to the municipal corporation; or
- (c) subdivide real property belonging to the municipal corporation in accordance with the *Planning Act*.

Disposition of real property

(2) A municipal corporation may sell, lease or otherwise dispose of real property belonging to the municipal corporation where

- (a) the real property is not required for a municipal purpose; or
- (b) the disposition of the real property is necessary for or promotes a municipal purpose.

Municipal purpose

(3) For greater certainty, the development or subdivision of real property belonging to the municipal corporation

- (a) for subsequent sale, lease or other disposition, and
- (b) for residential, commercial, industrial, institutional or other use,

is deemed, for the purposes of this Act, to be a municipal purpose.

added, S.N.W.T. 1994, c. 5, s. 3.1.

Prohibition on exemptions

133. No council has the power to grant a specific person an exemption from

- (a) any tax, rate, rent or other charge payable to the municipal corporation, or
- (b) the application of a by-law,

unless specifically authorized by an Act or regulation.

PART VII

GENERAL AND TRANSITIONAL

Regulations

212. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing the forms that are necessary or advisable in carrying out the provisions of this Act; and
- (b) prescribing any matter or thing that by this Act may or is to be prescribed.

Continuation of municipal corporations

213. Every hamlet, existing under the *Municipal Act*, R.S.N.W.T.1974, c.M-15, immediately before January 1, 1988, shall continue under this Act.

Continuation of by-laws, resolutions, rights and obligations

214. (1) Every by-law, resolution, contract, licence, right or obligation of a municipal corporation that existed immediately before January 1, 1988, shall continue in effect, to the extent it is not inconsistent with this Act, until it expires or is terminated or repealed.

The above excerpts of the *Hamlets Act* are from chapter H-1 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- R.S.N.W.T. 1988, c. 8(Supp.), s. 213; RA 26.10.88; CIF 19.07.93 (SI-008-93).
- R.S.N.W.T. 1988, c. 36(Supp.); RA 02.11.89.
- R.S.N.W.T. 1988, c. 46(Supp.), s. 30; RA 02.11.89.
- S.N.W.T. 1994, c. 5; RA 17.03.94; CIF 01.05.94 (SI-008-94).
- S.N.W.T. 1994, c. 24; RA 24.02.95.
- S.N.W.T. 1995, c. 11, s. 23; RA 24.02.95.

Land Titles Act

Excerpts from
Chapter 8 (Supp.), R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"Canada Lands Surveyor"

"Canada Lands Surveyor" means a Canada Lands Surveyor as defined in the Canada Lands Surveys Act;

"Deputy Registrar"

"Deputy Registrar" means a Deputy Registrar of Land Titles appointed under section 12;

"descriptive plan"

"descriptive plan" means a plan prepared from

- (a) a plan of survey that has been filed or registered in a land titles office,
- (b) property descriptions on a certificate of title, or
- (c) any other information,

in which some or all of the boundaries of the lots or other parcels created by the plan are not defined by monuments, but does not include a plan of survey;

"district"

"district" means a registration district established under section 3;

"encumbrance"

"encumbrance" means a registration district established under section 3;

"encumbrancee"

"encumbrancee" means the lien claimant in a lien authorized by statute to be filed in a land titles office, the caveator in a caveat, the execution creditor in a writ of execution or other writ against land and, in respect of any other encumbrance, the owner of the encumbrance;

"encumbrancer"

"encumbrancer" means the owner of any land or of any estate or interest in land subject to any encumbrance;

"filing"

"filing" means the entering in the day-book of any instrument or caveat;

"grant"

"grant" means any grant of land vested in Her Majesty in right of Canada, whether by letters patent under the Great Seal, a notification or any other instrument

whether in fee or for years, and whether direct from Her Majesty or under any statute;

"Inspector"

"Inspector" means the Inspector of Land Titles appointed under subsection 6(1);

"instrument"

"instrument" means any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate or exemplification of probate of a will, letters of administration or an exemplification of letters of administration, mortgage, special encumbrance, withdrawal of caveat or any other document in writing relating to or affecting the transfer of or other dealing with land or evidencing title to land, but does not include a caveat;

"land"

"land" means lands, messuages, tenements and hereditaments, corporeal and incorporeal, of every nature and description, and every estate or interest in such lands, messuages, tenements and hereditaments, whether the estate or interest is legal or equitable, together with all paths, passages, ways, watercourses, liberties, privileges, easements, mines, minerals and quarries appertaining to the land, and all trees and timber on or lying on land, unless any such are specially excepted;

"memorandum"

"memorandum" means the endorsement on the certificate of title and on the duplicate certificate of title of the particulars of any instrument or caveat presented for registration;

"metes and bounds"

"metes and bounds" means, in reference to a description of land, any description that is not for a whole lot or parcel created by a plan that has been filed or registered in a land titles office;

"Minister having administration of territorial lands"

Minister having administration of territorial lands" means

- (a) the Minister of the Government of Canada having the administration and control of territorial lands or an individual authorized to act on behalf of that Minister, or

(b) the Commissioner or an individual authorized to act on behalf of the Commissioner, where the Commissioner has the administration and control of territorial lands;

"notification"

"notification" means a notification as defined in the *Territorial Lands Act* (Canada);

"owner"

"owner" means any person entitled to any freehold or other estate or interest in land, at law or in equity, in possession, in futurity or expectancy;

"plan of survey"

"plan of survey" means a plan in which the boundaries of the lots or other parcels created by the plan are defined by

- (a) monuments, or
- (b) monuments and natural features;

"Registrar"

"Registrar" means

- (a) a Registrar of Land Titles appointed under subsection 8(1), or
- (b) a Deputy Registrar or the Inspector when acting as Registrar;

"registration"

"registration" means

- (a) the bringing of land under the provisions of this Act, and
- (b) the entering on a certificate of title of a memorandum authorized by this Act, of any instrument or caveat;

"Sheriff"

"Sheriff" means the Sheriff appointed under the *Judicature Act*;

"Surveyor General"

"Surveyor General" means the Surveyor General as defined in the *Canada Lands Surveys Act*;

"territorial lands"

"territorial lands" means territorial lands as defined in section 2 of the *Territorial Lands Act* (Canada) that are in the Territories;

"transfer"

"transfer" means the passing of any estate or interest in land under this Act, whether for valuable consideration or otherwise;

"transferee"

"transferee" means the person to whom any interest or estate in lands is transferred, whether for valuable consideration or otherwise;

"transferor"

"transferor" means the person by whom any interest or estate in land is transferred, whether for valuable consideration or otherwise;

"transmission"

"transmission" means a change of ownership consequent upon death, sale under a writ of execution or other writ against land, a settlement or a legal succession in case of intestacy, or any other act of law.

S.N.W.T. 1995, c. 25, s. 2.

GOVERNMENT OF THE
NORTHWEST TERRITORIES

Government bound by Act

2. This Act and the regulations bind the Government of the Northwest Territories and its agents.

PART I

ADMINISTRATION

REGISTRATION DISTRICTS

Registration districts

3. The Minister may, by order,

- (a) establish any portion or all of the Territories as a registration district;
- (b) establish the name of a district;
- (c) identify the community in which the land titles office of a district is to be located;
- (d) change the boundaries of a district; and
- (e) when establishing new districts, provide for any matter necessary to ensure that the land titles offices in the new districts operate properly.

Land titles office

4. (1) There must be a land titles office for each district.

Location

(2) The land titles office for a district must be located in a community within that district.

OFFICERS

Inspector of Land Titles

6. (1) The Minister shall appoint an Inspector of Land Titles.

Duties

7. (1) The Inspector shall, under instructions from the Minister,

- (a) inspect the books and records of the land titles offices; and
- (b) perform any other duties that may be determined by the Minister.

(b) is, for any other reason, unfit for filing or registration.

GENERAL REQUIREMENTS

Inspector as Registrar

(3) The Inspector may perform any duty or exercise any power of a Registrar.

Requirement for certificate of title

24. (1) No Registrar shall accept

- (a) an instrument, or
- (b) a caveat,

unless a certificate of title has been issued for the land described in the instrument or caveat.

Registrar of Land Titles

8. (1) The Minister shall appoint a Registrar of Land Titles for each district.

Exemption

(2) Subsection (1) does not apply to an instrument that is a grant, writ of execution or other writ that may affect land, mechanics' lien or plan.

Duties

9. The Registrar shall conduct the business of the land titles office in the district of that Registrar.

Witness

29. (1) Subject to subsection (3), the execution of every instrument submitted for filing or registration under this Act must be witnessed.

Deputy Registrars of Land Titles

12. The Minister may appoint one or more Deputy Registrars of Land Titles for each district.

Requirements of witness

(2) A witness to the execution of an instrument shall sign his or her name to the instrument as a witness and make an affidavit in the prescribed form.

Duties

13. (1) A Deputy Registrar for a district shall assist the Registrar for that district under instructions from the Registrar.

Exemption

(3) Subsection (1) does not apply to the following

- (e) the execution of an instrument under the seal of a corporation;
- (j) the execution of a transfer of an estate or interest in land by the Sheriff under seal;
- (l) a lease of territorial lands or a transfer of a lease of territorial lands, including a lease or transfer of lease executed before the coming into force of this section, that is provided for under another enactment and that does not or did not require a witness to the execution of the lease or transfer of lease under that enactment;

(m) a lease of territorial lands or a transfer of a lease of territorial lands, including a lease or transfer of lease executed before the coming into force of this section, that is provided for under an Act of Canada or a regulation under an Act of Canada and that does not or did not require a witness to the execution of the lease or transfer of lease under that Act or regulation;

(n) a lease and amendment, assignment or transfer of a lease referred to in subsection 107.1(1).

S.N.W.T. 1995, c. 25, s. 5.

Delegation by Registrar

(2) A Registrar may delegate to a Deputy Registrar for the district of that Registrar any of the duties or powers of the Registrar.

Deputy Registrar as Registrar

(3) A Deputy Registrar for a district may, in the event of the illness of the Registrar for that district or the absence of the Registrar, perform all the duties and exercise all the powers of the Registrar.

PART II

PROCEDURES

PROCESSING INSTRUMENTS AND CAVEATS

Rejection of instruments and caveats

20. A Registrar may refuse to accept any instrument or caveat that has been submitted for filing or registration if, in the opinion of the Registrar, the instrument or caveat

- (a) does not substantially conform to the prescribed form for the instrument or caveat; or

CERTIFICATES OF TITLE

Affidavits

30. Every affidavit submitted to a Registrar to be filed or registered or that is submitted in support of an instrument or caveat that is to be filed or registered is subject to the provisions respecting affidavits in the Rules of the Supreme Court.

Production of duplicate certificate

31. (1) Unless required to do so by order of a judge, and subject to subsection (2), no Registrar shall accept any instrument for filing or registration until the duplicate certificate of title that has been issued for the land affected by the instrument is produced to the Registrar.

Exceptions

(2) A duplicate certificate of title for the lands affected need not be produced where

- (a) the Registrar has retained the duplicate under section 114;
 - (b) the instrument is
 - (i) a writ of execution or other writ against land or a lien authorized by statute to be filed in a land titles office or a discharge of those instruments,
 - (ii) a withdrawal of caveat,
 - (iii) a transfer by the Sheriff or by order of a judge,
 - (iv) a plan that is not required to be registered, or
 - (v) a certificate or order of a judge; or
 - (c) the instrument is submitted in the exercise of a right of expropriation
- that is authorized by statute.

RECORDS

Retaining instruments

32. Every Registrar shall retain in the land titles office of that Registrar

- (a) every instrument and caveat that is filed, registered or issued in that office;
- (b) every duplicate certificate that the Registrar is required to retain under section 114; and
- (c) every duplicate certificate of title cancelled by that Registrar.

Form

39. (1) A certificate of title must be in the prescribed form.

S.N.W.T. 1995, c. 25, s. 11.

Receipt of grants

40. A Registrar who receives a grant of land that is within the district of that Registrar shall issue a certificate of title, with any necessary qualification contained in the grant, to the person named in the grant.

Entries in case of transfer

41. (1) Where a Registrar registers a transfer for the fee simple estate in land, the Registrar shall cancel the certificate of title of the transferor and the duplicate certificate, if any, either wholly or partially pursuant to the transfer, and issue a new certificate of title in the name of the transferee.

Numbers of certificate of title

(2) A Registrar issuing a certificate of title referred to in subsection (1) shall note on the certificate of title of the transferor, the number of the new certificate of title issued in the name of the transferee and, on the certificate of title of the transferee, the number of the certificate of title of the transferor.

Estate for life or for years

42. Where a Registrar registers an instrument, other than a grant, creating

- (a) a leasehold estate for a life or lives or for a term of more than three years, or
- (b) an estate for life,

the Registrar shall issue a certificate of title to the owner, unless the owner requests, in writing, that no certificate of title be issued.

Easement

43. Where a Registrar registers a transfer creating a utility easement as defined in subsection 76(4), the Registrar shall, on the written request of the owner of the utility easement, issue a certificate of title to that person.

Consolidation of certificates of title

47. (1) On the application of an owner of several parcels of land held under separate certificates of title, or where the consolidation of certificates of title

appears to a Registrar to be desirable, the Registrar may cancel the existing certificates of title and issue to the owner one or more certificates of title for all the parcels of land.

Separation of certificates of title

(2) On the application of an owner of several parcels of land held under one certificate of title, or where the separation of certificates of title appears to a Registrar to be desirable, the Registrar may cancel the existing certificate of title and issue to the owner two or more certificates of title for all the parcels of land.

Notation on new certificates

(3) The Registrar shall enter on each certificate of title issued under subsection (1) or (2)

- (a) a notation explaining that the certificate is issued for the purposes of a consolidation or separation of certificates of title; and
- (b) a reference to the certificate of title that has been cancelled.

Replacing partially cancelled certificate

48. (1) On the application of an owner whose certificate of title has been partially cancelled or where such a course appears to a Registrar to be desirable, the Registrar may cancel the existing certificate of title and issue to the owner a new certificate of title for the land remaining on the cancelled certificate.

Notation on new certificate

(2) The Registrar shall enter on the certificate of title issued under subsection (1)

- (a) a notation explaining that the certificate is issued to replace a partially cancelled certificate of title; and
- (b) a reference to the certificate of title that has been cancelled.

PART III

REGISTRATION

INSTRUMENTS AND CAVEATS

Grants

51. Every grant is registered when the certificate of title issued on the basis of that grant is signed by the Registrar in whose district the land is located and the seal of office of the Registrar is affixed to the certificate.

Other instruments and caveats

52. Every instrument, other than a grant, and every caveat is registered when a memorandum of it has been entered on the certificate of title to which the instrument or caveat applies.

APPLICATION BY MINISTER OR COMMISSIONER

Certificate of title to Her Majesty or Commissioner

57. (1) A Minister having administration of territorial lands may, where a certificate of title is not issued for the territorial lands, apply to the Registrar in whose district the lands are located to have a certificate of title issued under this Act.

Issuance of certificate of title

(2) A Registrar who receives an application under subsection (1) shall issue a certificate of title in the name of Her Majesty in right of Canada or the Commissioner, as the case may be.

S.N.W.T. 1995, c. 25, s. 13.

Survey

58. A certificate of title shall not be issued under section 57 in respect of territorial lands unless those lands have been the subject of or included in a survey made in accordance with Part II of the *Canada Lands Surveys Act* and a copy of an official plan of the survey has been filed in the land titles office for the district in which the lands shown on the plan are located.

S.N.W.T. 1995, c. 25, s. 13.

Application to withdraw lands from Act

59. (1) Where Her Majesty in right of Canada or the Commissioner is named as the owner on a certificate of title, the Minister having administration of territorial lands may apply to the Registrar in whose district the land is located to cancel the certificate of title for the territorial lands described in the certificate of title.

Cancellation of certificate of title

(2) A Registrar who receives an application under subsection (1), may cancel the certificate of title where there are no encumbrances or other interests registered against the certificate of title.

Effect of cancellation

(3) The land described in a certificate of title that has been cancelled under subsection (2) is not subject to this Act except where

- (a) a new grant for the land or an application under section 58 is registered; or
- (b) an action for ejectment or damages referred to in subsection (4) in respect of the land is commenced.

Action for ejectment or damages

(4) An action for ejectment or damages under this Act with respect to the land described in a certificate of title that has been cancelled under subsection (2) is not affected by the cancellation of the certificate of title, the registration of a new grant or the registration of an application under section 58 for the land.

S.N.W.T. 1995, c. 25, s. 14.

APPLICATION BY OWNER

Land granted before 1887

60. The owner of any estate in any land, whether legal or equitable, letters patent for which issued from Her Majesty in right of Canada before January 1, 1887, or which otherwise had before that date passed from Her Majesty, is entitled to have the estate registered under this Act.

Application

61. Where an owner referred to in section 60

- (a) applies to the Registrar in whose district the land is located in accordance with the prescribed procedures, and
- (b) meets the prescribed standards for establishing the ownership and validity of the estate,

the Registrar shall issue a certificate of title to the owner for the estate.

EFFECT OF REGISTRATION

Implied covenant

62. In every instrument transferring, encumbering or charging any land for which a certificate of title has been issued, there is implied the following covenant by the transferor or encumbrancer, namely, that the transferor or encumbrancer will do the acts and execute the instruments that, in accordance with this Act, are necessary to give effect to all covenants, conditions and purposes expressly contained in the instrument, or by this Act declared to be implied against such person in instruments of a similar nature.

Unregistered instruments

64. After a certificate of title has been issued for any land, no instrument, until registered under this Act, is, as against any bona fide transferee of the land under this Act, effectual to pass any estate or interest in the land except a leasehold interest not exceeding three years, or to render the land liable as security for the payment of money.

Effect of registration

65. On the registration of any instrument under this Act, the estate or interest specified in the instrument passes, or the land becomes liable as security, in the manner and subject to the covenants, conditions and contingencies contained and specified in the instrument, or by this Act declared to be implied in instruments of a similar nature.

Effect of certificate

66. (1) The owner of land for which a certificate of title has been issued, except in case of a fraud in which the owner has participated or colluded, holds the land subject, in addition to the incidents implied by virtue of this Act, to the encumbrances, liens, estates or interests that are notified on the certificate of title for the land, but absolutely free from all other encumbrances, liens, estates or interests, except the estate or interest of an owner claiming the same land under a prior certificate of title issued under this Act.

Computation of priority

(2) Such priority shall, in favour of any person in possession of land, be computed with reference to the grant or earliest certificate of title under which the person or any person through whom that person derives title, has held that possession.

Holder of prior certificate

67. A person shall be deemed to claim under a prior certificate of title who is a holder of, or whose claim is derived directly or indirectly from a person who was the holder of an earlier certificate of title, notwithstanding that the certificate of title has been surrendered and a new certificate of title has been issued on a transfer or other instrument.

Implied reservations

69. The title of the land mentioned in a certificate of title is, by implication, and without any special mention in the certificate, unless the contrary is expressly declared, subject to

- (a) any subsisting reservations or exceptions contained in the original grant of the land;

- (b) all unpaid taxes;
- (c) any public highway or right-of-way or other public easement, however created, on, over or in respect of the land;
- (d) any subsisting lease or agreement for a lease for a period not exceeding three years, where there is actual occupation of the land under the lease or agreement;
- (e) any decrees, orders or writs against or affecting the interest of the owner in the land, that have been filed and maintained in force against the owner; and
- (f) any right of expropriation that is authorized by statute.

Instruments operative on registration

70. Every instrument becomes operative according to the tenor and intent of the instrument, when it is registered, and on registration it creates, transfers, surrenders, charges or discharges, as the case may be, the land or estate or interest mentioned in the instrument.

Priority in order of registration

71. Instruments registered in respect of or affecting the same land are entitled to priority the one over the other according to the time of registration and not according to the date of execution.

PART IV

INSTRUMENTS AND CAVEATS

TRANSFERS

Form

76. (1) Subject to subsection (2), where land, for which a certificate of title has been issued, is intended to be transferred, or any right-of-way or other easement affecting that land is intended to be created or transferred, the owner shall execute a transfer in the prescribed form.

Grant

(2) Where the owner referred to in subsection (1) is Her Majesty in right of Canada or the Commissioner, Her Majesty or the Commissioner may submit a grant that has been properly executed.

Requirements

- (3) A transfer referred to in subsection (1) must

- (a) refer to the certificate of title of the land intended to be dealt with or give the description that is necessary to identify that land;
- (b) contain an accurate statement of the estate, interest or easement intended to be created or transferred; and
- (c) describe each lease, mortgage, special encumbrance or other encumbrance to which the land is subject.

Utility easement

(4) For the purposes of this section, "easement" includes a utility easement, that is to say a right, expressed or intended to be capable of assignment whether or not expressed to be appurtenant to or for the benefit of other land, that is derived other than as a natural right of ownership of the freehold in land

- (a) to construct, maintain and operate on the land any railway, street railway, tramway or aerial tramway for the transportation of passengers or goods or both;
- (b) to construct, maintain and operate through, on, over or under the land, pipes, transmission lines or wires
 - (i) for the transmission or transportation of electrical power, water, oil or gas, or
 - (ii) for telephone, telegraph or other electronic communication systems;
- (c) to construct, maintain and operate through the land ditches and drains for the conveyance of water, sewage or waste products;
- (d) to flood the land or control waters on the land, including the formation and break-up of ice, the construction, maintenance and operation of a dam, reservoir, power-house or other work for
 - (i) the generation, manufacture, distribution or supply of electrical power,
 - (ii) the irrigation or other agricultural use of land, or
 - (iii) the supplying of water; or
- (e) to do those other things in respect of land that may be prescribed.

S.N.W.T. 1995, c. 25, s. 17.

Words of limitation

77. (1) No words of limitation are necessary in any transfer of land in order to transfer all or any title in the land, but every instrument transferring land operates as an absolute transfer of all such right and title that the transferor has in the land at the time of its execution, unless a contrary intention is expressed in the transfer.

Estoppel

(2) Nothing in subsection (1) precludes any transfer from operating by way of estoppel.

Effect of words of limitation

(3) The introduction of any words of limitation into any transfer or devise of any land, has the same force and meaning, as the same words of limitation would have if used by way of limitation of any personal estate.

Memorandum on dominant as well as servient land

78. Where any easement or any incorporeal right in or over any land for which a certificate of title has been issued is created for the purpose of being annexed to or used and enjoyed together with other land for which a certificate of title has also been issued, the Registrar in whose office the certificates were issued shall make a memorandum of the instrument creating that easement or incorporeal right on the existing certificate of title of the other land.

Surrender of easement

79. (1) The owner of a utility easement as defined in subsection 76(4) or the person who has the benefit of any other type of easement may submit to the Registrar in whose office the easement is registered a surrender of easement in the prescribed form.

Consent of encumbrancees

(2) The Registrar shall not accept a surrender of an easement unless a consent to the surrender signed by the owner of each encumbrance against the easement is submitted with the surrender.

Effect of registration

(3) On the registration of a surrender of easement, the easement is extinguished and the Registrar may cancel any certificate of title and duplicate certificate for the easement.

PLANS

Requirement for plan

80. (1) A Registrar may require the owner of an estate or interest in land that is less than a lot or other parcel created by a plan of survey that has been filed or registered, who has submitted a transfer or other dealing for all of that land to provide the Registrar with a plan of survey or a descriptive plan, as specified by the Registrar, for the land described in the instrument.

Refusal to register dealing

(2) The Registrar may refuse to register the transfer or other dealing by the owner until the plan specified under subsection (1) is submitted to the Registrar.

Notice respecting plan

81. (1) A Registrar may notify an owner of an estate or interest in land that is less than a lot or other parcel created by a plan of survey that has been filed or registered, that unless the owner submits a plan of survey or a descriptive plan, as specified by the Registrar, for all of that land, the Registrar will not accept a transfer or other dealing by the owner for all of that land.

Memorandum of notice

(2) Where a Registrar gives notice to an owner under subsection (1), the Registrar shall make a memorandum of the notice on the certificate of title for the land described in the notice.

Effect of notice

82. A Registrar, who has given notice to an owner under subsection 81(1), shall not register any transfer or other dealing by the owner for the land described in the notice unless

(a) the owner submits the plan as specified by the Registrar in the notice; or

(b) the Registrar withdraws the notice under section 83.

Withdrawal of plan requirement

83. (1) A Registrar may, at any time, withdraw the requirement to submit a plan referred to in section 81.

Duties of Registrar

(2) A Registrar who withdraws the requirement to submit a plan shall

(a) notify the owner who was subject to the requirement of the withdrawal; and

(b) make a memorandum of the withdrawal on the certificate of title for the land of the owner affected by the withdrawal.

Requirements of plan

84. A plan of survey or a descriptive plan required by the Registrar to be submitted under section 80 or 81 must

(a) be certified correct in the prescribed form and made by a Canada Lands Surveyor; and

- (b) meet the prescribed requirements.

Duty after registration of plan

85. Where a Registrar registers a plan submitted in compliance with a requirement of the Registrar under section 80 or 81, the Registrar may

- (a) cancel any existing certificate of title for the land shown on the plan;
- (b) issue a new certificate of title for the land having a description that refers to the lot or other parcel created by the plan; and
- (c) amend any memorandum that refers to the land by deleting the old description and substituting a description that refers to a lot or other parcel created by the plan.

Subdivision by transfer

86. (1) Subject to subsection (2), a Registrar shall not accept a transfer of

- (a) a fee simple estate, or
- (b) an estate or interest in mines and minerals,

for which a certificate of title has been issued, where the land description in the transfer describes a parcel of land that is

- (c) less than a lot or other parcel created by a plan of survey that has been filed or registered, and
- (d) less than the land described in the certificate of title.

Exemptions

(2) Subsection (1) does not apply to a transfer or two or more transfers submitted at the same time where the transfer or transfers, if registered, convey

- (a) the ownership of land so that all of a lot or other parcel created by a registered plan of survey is held by one person or two or more persons as co-owners; or
- (b) the ownership of part of a lot or other parcel created by a registered plan of survey to a person who owns an adjacent part of the same lot or parcel.

Condominium plan

87. A Registrar shall not accept a plan as defined in the *Condominium Act* for land for which a certificate of title has been issued where the plan is for land that is less than a lot or other parcel created by a plan of survey that has been filed or registered.

Subdivision and consolidation plan of survey

88. The owner of any registered estate or interest may submit to the Registrar in whose office the estate or interest is registered a plan of survey that subdivides or consolidates lots or other parcels created by one or more plans of survey that have been filed or registered.

Requirement for transfers

89. A Registrar shall not accept a plan of survey referred to in section 88 in which all of a lot or other parcel created by the plan is not owned by one person or two or more persons as co-owners unless the owners of the land submit, with the plan, transfers so that,

- (a) with respect to a plan submitted by owners of an estate or interest in mines and minerals, the estate or interest in the mines and minerals for each lot or other parcel created by the plan is owned by one person or two or more persons as co-owners; or
- (b) with respect to a plan submitted by any other owners, the fee simple estate for each lot or other parcel created by the plan is owned by one person or two or more persons as co-owners.

Plan requirements

90. A plan of survey referred to in section 88 must

- (a) where the plan is for dealings respecting an estate or interest in mines and minerals, be signed by the owner of that estate or interest in every lot or other parcel created by the plan;
- (b) where the plan is not for dealings respecting an estate or interest in mines and minerals, be
 - (i) signed by the fee simple owner of every lot or other parcel created by the plan, and
 - (ii) approved by the Minister responsible for the *Planning Act* or a person designated by the Minister to approve such a plan;
- (c) where transfers are submitted with the plan under paragraph 89(a), be signed by every lessee and encumbrancee of the estate or interest in the mines and minerals of every lot or other parcel created by the plan;
- (d) where transfers are submitted with the plan under paragraph 89(b), be signed by every lessee and encumbrancee of every lot or other parcel created by the plan, other than the lessees and encumbrancees of any estate or interest in the mines and minerals;
- (e) be certified correct in the prescribed form and made by a Canada Lands Surveyor; and

(f) be prepared in accordance with the prescribed procedures and meet the prescribed requirements.

Order dispensing with signature

91. (1) Where an owner, lessee or encumbrancee whose signature is required on a plan of survey refuses to sign the plan, the owner who directed the plan to be prepared, may apply, by originating notice, to a judge for an order dispensing with the requirement that the owner, lessee or encumbrancee sign the plan.

Deemed refusal

(2) An owner, lessee or encumbrancee shall be deemed to have refused to sign a plan of survey where the owner who directed the plan to be prepared

- (a) personally serves the owner, lessee or encumbrancee with or sends by registered mail to the current post office address for the owner, lessee or encumbrancee as shown in the records of the Registrar, a request to sign the plan; and
- (b) does not receive a response to the request within 30 days of the request being served or sent.

Grounds for granting order

(3) A judge may grant an order dispensing with the signature of the owner, lessee or encumbrancee where the judge is satisfied that the signature is being unreasonably withheld or for other grounds that the judge considers appropriate.

Duty after registration of plan

92. On the registration of a plan of survey referred to in section 88 and any transfers under section 89, the Registrar shall,

- (a) where the plan is for dealings respecting an estate or interest in mines and minerals, cancel the certificates of title for that estate or interest and any certificate of title based on that estate or interest for every lot or other parcel created by the plan, or
- (b) where the plan is not for dealings respecting an estate or interest in mines and minerals, cancel the certificates of title for the fee simple estate and any certificate of title based on that estate for every lot or other parcel created by the plan,

and issue new certificates of title with descriptions of land that refer to the new lots or other parcels to replace the certificates that have been cancelled.

Surveys of metes and bounds descriptions

92.1. A Registrar may cancel the existing certificate of title for land described by metes and bounds and issue a new certificate of title with a description of the

land referring to the whole of a lot or other parcel shown on a plan of survey, where the Registrar is satisfied that the lot or other parcel shown on the plan of survey accurately depicts the land described by metes and bounds and the plan of survey

(a) is submitted by an owner as required by the Registrar under section 80 or 81; or

(b) is submitted by an owner under section 88.

added, S.N.W.T. 1995, c. 25, s. 19.

Plans of survey previously registered

92.2. On the written request of the owner of the whole of a lot or parcel shown on a plan that was not binding on the person who filed or registered the plan before the coming into force of this Act, a Registrar may cancel the existing certificate of title and issue a new certificate of title with a description of the land referring to the lot or other parcel shown on the plan.

added, S.N.W.T. 1995, c. 25, s. 19.

Application

93. (1) This section does not apply to

- (a) a transfer to which section 86 applies; or
- (b) a plan as defined in the *Condominium Act* referred to in section 87.

Dealing of less than whole lot

(2) A Registrar shall not accept a dealing by an owner of land whose interest has been registered on a certificate of title where the land description in the dealing describes a parcel of land that is

- (a) less than a lot or other parcel created by a plan of survey that has been filed or registered, and
- (b) less than the land of the owner of the interest as registered on the certificate of title,

unless the Registrar approves of a land description in the dealing that refers to a lot or other parcel created by

- (c) a plan commonly known as an "explanatory plan" or other administrative plan prepared under the *Canada Lands Surveys Act* that has been filed, or
- (d) a descriptive plan.

Descriptive plan

94. Where the Registrar approves, under subsection 93(2), of an owner submitting a dealing with a land description that refers to a descriptive plan, the owner

may submit a descriptive plan that creates a lot or other parcel for the land intended to be dealt with.

Plan requirements

95. A descriptive plan submitted under section 9 must be

- (a) approved by the Minister responsible for the *Planning Act* or a person designated by the Minister to approve such a plan;
- (b) certified correct in the prescribed form and made by a Canada Lands Surveyor; and
- (c) prepared in accordance with the prescribed procedures and meet the prescribed requirements.

Encumbrance against less than whole lot

96. (1) A Registrar shall not accept for registration against a certificate of title an encumbrance that does not require the signature of the owner against whose interest the encumbrance is proposed to be registered, where the land description in the encumbrance describes a parcel of land that is

- (a) less than a lot or other parcel created by a plan that has been filed or registered; and
- (b) less than the land of the owner against whose interest the encumbrance is proposed to be registered.

Mechanics' lien

(2) A Registrar shall not accept for filing a mechanics' lien against land for which there is no certificate of title where the land description in the lien describes a parcel by metes and bounds.

Descriptive plan

97. An encumbrancee may submit a descriptive plan that creates a lot or other parcel for the purpose of registering the encumbrance of the encumbrancee under section 96.

Plan requirements

98. A descriptive plan referred to in section 97 must

- (a) be certified correct in the prescribed form and made by a Canada Lands Surveyor; and
- (b) meet the prescribed requirements.

Restriction on issuance of certificate of title

99. A Registrar shall not issue a certificate of title for land that is described by reference to a descriptive plan referred to in section 97.

Reference to proper plan

100. (1) Subject to subsection (2), a Registrar shall not accept an instrument or caveat for registration against a certificate of title where the land description in the instrument or caveat does not refer to the plan used in the land description in the certificate of title or a plan registered against the certificate of title.

Exemption

(2) Subsection (1) does not apply to

- (a) transmissions and transfers of mortgages and special encumbrances, discharges, satisfactions, withdrawals and surrenders;
- (b) transfers referred to in section 89; and
- (c) transmissions and transfers of leases for which no certificate of title has been issued.

Correction of plans by Registrar

101. (1) A Registrar may, with respect to any plan submitted under this Act, correct on the plan, any omission, clerical error or other defect in the plan that does not have the effect of changing any boundary shown on the plan.

Notice

(2) Where a Registrar makes a correction under subsection (1), the Registrar shall send a notice of the correction to the Surveyor General or the agent of the Surveyor General and any owner that the Registrar believes would be interested in the correction.

Correction of plans by judge

102. (1) On the application of a Registrar, the Surveyor General, a Canada Lands Surveyor or any person having an interest in land affected by a plan submitted under this Act, a judge may, after hearing all persons concerned, order the plan to be

- (a) cancelled in whole or in part; or
- (b) amended.

Terms and conditions

(2) An order granted under subsection (1) may be on terms and conditions as to costs and other matters that the judge considers proper.

Notice

(3) Where a Registrar registers an order referred to in subsection (1), the Registrar shall send a notice of the order to the Surveyor General or the agent of the Surveyor General and any owner that the Registrar believes is affected by the order.

*Plans prepared under Acts of Canada***103.** A plan that has been

- (a) prepared in accordance with the provisions of an Act of Canada, and
- (b) sent, under or in accordance with those provisions, to the Registrar in whose district the lands shown on the plan are located,

must be dealt with and recognized by the Registrar, insofar as it is capable of being dealt with and recognized, as if it had been prepared in accordance with this Act.

*Plans of surrendered Indian reserves***104.** A plan that has been

- (a) attested by the signature of the Minister or Deputy Minister of Indian Affairs and Northern Development,
- (b) certified by a Canada Lands Surveyor to be a true copy of a plan of survey lodged or filed in the Department of Indian Affairs and Northern Development of lands described as surrendered lands in the *Indian Act* (Canada), and
- (c) sent to the Registrar in whose district the lands shown on the plan are located,

must be dealt with and recognized by the Registrar, insofar as it is capable of being dealt with and recognized, as if it had been prepared in accordance with this Act.

Substitution of plan

105. Where a Registrar receives a plan from the federal Minister of Energy, Mines and Resources that is, by virtue of the *Canada Lands Surveys Act*, to be substituted for all or corresponding portions of a plan previously sent to the Registrar by the Minister, the Registrar shall

- (a) file or register the new plan giving it a new plan number;
- (b) cancel any certificate of title that refers to the previously sent plan and issue a new certificate of title based on the new plan; and
- (c) amend any memorandum that refers to the previously sent plan by deleting any reference to the previously sent plan and substituting a reference to the new plan.

Deleting memorandum of plan

106. Where a Registrar is satisfied that there are no registered instruments or caveats with land descriptions based on a descriptive plan that has been filed or a plan prepared for administrative purposes

under the *Canada Lands Surveys Act* that has been filed, the Registrar may delete a memorandum of the descriptive plan or plan prepared for administrative purposes from a certificate of title.

LEASES

Form

107. (1) Where land, for which a certificate of title has been issued, is intended to be leased or demised for a life or lives, or for a term of more than three years, the owner shall execute a lease in the prescribed form.

Surrender of lease

112. (1) The lessee of a lease who intends to surrender the lease, other than through the operation of a surrender in law, may submit to the Registrar in whose office the lease is registered a surrender of the lease in the prescribed form.

Consents required

(2) The Registrar shall not accept a surrender of a lease unless a consent to the surrender signed by the lessor, or the successor of the lessor in law, and the owner of each encumbrance against the lease is submitted with the surrender.

Effect of registration

(3) On the registration of a surrender of lease, the estate or interest of the lessee in the land vests in the lessor, or the successor of the lessor in law, and the Registrar may cancel any certificate of title and duplicate for the estate or interest of the lessee.

POWERS OF ATTORNEY

Form

127. (1) The owner of any land may authorize and appoint any person to act for the owner or on behalf of the owner with respect to the transfer or other dealing with the land or with any part of the land, in accordance with this Act, by executing a power of attorney in the prescribed form, or as near to the prescribed form as circumstances permit.

Memorandum

(2) A Registrar shall not make a memorandum of any power of attorney on a certificate of title.

Rights of owner

(3) The execution or filing of a power of attorney does not in any way affect the right of the owner to transfer or otherwise deal with the land of that owner.

TRANSMISSION

*Transmission application***130. (1)** Where

- (a) the owner of land for which a certificate of title has been issued,
- (b) the owner whose interest has been registered on a certificate of title, or
- (c) an encumbrancee,

dies, the personal representative of the owner or encumbrancee shall, before dealing with the land, interest or encumbrance, make a transmission application, in the prescribed form, to be registered as owner of the land, interest or encumbrance in the capacity of personal representative and that application must be verified by affidavit in the prescribed form by the applicant or someone on behalf of the applicant.

Title to relate back

133. The title of an executor or administrator relates back and takes effect from the date of the death of the deceased owner or encumbrancee.

Nature of title of personal representative

134. (1) A personal representative who is registered in place of a deceased owner or encumbrancee, holds the land, interest or encumbrance in respect of which the representative is deemed to own, on the trusts and for the purposes that apply by this Act or by law, and subject to any trusts and equities on which the deceased owner or encumbrancee held the land, interest or encumbrance.

Registered dealings

(2) For the purpose of any registered dealings in any land, interest or encumbrance registered in the name of a personal representative, the personal representative shall be deemed to be the absolute and beneficial owner of the land, interest or encumbrance.

Application by surviving joint tenant

136. (1) On the death of an individual or the dissolution of a corporation that is an owner of

- (a) land for which a certificate of title has been or may be issued, or
 - (b) a registered mortgage or special encumbrance,
- as a joint tenant with another owner, the surviving owner may make an application in the prescribed form to the Registrar in whose district the land is located or the mortgage or special encumbrance is registered, to be registered as the sole owner of the land, mortgage or special encumbrance.

Requirements

(2) The application must be signed by the surviving owner and be accompanied with proof, satisfactory to the Registrar, of the death of the individual or the dissolution of the corporation, as the case may be.

Registration of application

(3) On the surviving owner submitting an application that meets the requirements of subsection (2), the Registrar shall

- (a) register the application; and
- (b) where a certificate of title had been issued to the owners as joint tenants, cancel the certificate of title and duplicate, if any, and issue a new certificate in the name of the surviving owner.

Effect of registration

(4) On the registration of an application under subsection (3), the interest of the deceased owner or dissolved corporation in the land, mortgage, or special encumbrance is extinguished.

PART VII

PROCEEDINGS BEFORE A JUDGE

RETURN OF DUPLICATE
OR OTHER INSTRUMENT*Conditions respecting plans*

176. (1) Subject to subsection (2), an order of a judge that directs a Registrar to issue a new certificate of title for

- (a) a fee simple estate, or
 - (b) an estate or interest in mines and minerals,
- for land that is less than a lot or other parcel created by a plan of survey that has been filed or registered is subject to the following conditions, namely,
- (c) the order must not be submitted for registration unless a plan of survey prepared in accordance with paragraphs 90(e) and (f) is submitted to the Registrar with the order, and
 - (d) the new certificate of title issued by the Registrar in compliance with the order must refer to a lot or other parcel created by that plan of survey.

Exemptions

- (2) Subsection (1) does not apply to an order
 - (a) that is based on an instrument registered under the *Land Titles Act* (Canada); or
 - (b) that has a land description that is

(i) the metes and bounds description that is used as the land description on an existing certificate of title, or

(ii) a lot or other parcel created by a registered descriptive plan required by the Registrar under section 80 or 81.

Conditions respecting plans

177. (1) Subject to subsection (2), an order of a judge that directs a Registrar

(a) to register an instrument or caveat, or

(b) to issue a new certificate of title for an estate or interest, other than a fee simple estate or an estate or interest in mines and minerals,

for land that is less than a lot or other parcel created by a plan of survey that has been filed or registered is subject to the following conditions, namely,

(c) the person submitting the order for registration shall comply with the requirements of the Registrar with respect to the submission of a plan to be used to describe the land referred to in the order,

(d) the Registrar shall not register the order until a plan that complies with the requirements of the Registrar is submitted for registration, and

(e) the memorandum of the registration or the new certificate of title made or issued in compliance with the order must refer to a lot or other parcel created by that plan.

Exemptions

(2) Subsection (1) does not apply to an order that has a land description that is

(a) the metes and bounds description that is used as the land description on existing certificate of title; or

(b) a lot or other parcel created by a registered descriptive plan required by the Registrar under section 80 or 81.

PART VIII

GENERAL

REGULATIONS

Regulations

195. The Commissioner, on the recommendation of the Minister, may make regulations

(b) prescribing the form for any document or instrument that may be filed, registered or issued under this Act and any notice referred to in this Act;

(f) respecting the procedures for making an application to have an estate in land registered under section 61 and the standards for establishing the ownership and validity of such an estate;

(g) prescribing the things that may be included in a utility easement for the purposes of subsection 76(4);

(h) respecting the procedures for the preparation of and the requirements for plans made under this Act;

(j) prescribing any matter or thing that by this Act may or is to be prescribed; and

(k) respecting any other matter that the Commissioner considers necessary or advisable for carrying out the purposes and provisions of this Act.

S.N.W.T. 1995, c. 25, s. 26.

TRANSITIONAL

Existing certificates of title

196. Every certificate of title that has been granted and every duplicate that has been issued under the *Land Titles Act* (Canada) and every filing, registration or memorandum made under the *Land Titles Act* (Canada) shall be deemed to be a certificate of title, duplicate, filing, registration or memorandum under this Act.

Coming into Force

Land Titles Act

R.S.N.W.T. 1988, c.8(Supp.); RA 26.10.88

CIF 19.07.93 (SI-008-93)

The above excerpts of the *Land Titles Act* are from chapter 8 (Supp.) of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- S.N.W.T. 1995, c. 25; RA 27.04.95; CIF 27.04.95 ex. ss. 3, 4, 15, 18 and 21 to 26;
ss. 3, 4, 15, 18 and 21 to 26 CIF 01.08.95 (SI-005-95).

Limitation of Actions Act

Excerpts from
Chapter L-8, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"action"

"action" means a civil proceeding;

"disability"

"disability" means disability as a result of being a minor or arising from unsoundness of mind;

"land"

"land" includes all corporeal hereditaments, and any share or any freehold or leasehold estate or any interest in any of them;

"proceedings"

"proceedings" includes action, entry, taking of possession, distress and sale proceedings under an order of a court or under a power of sale contained in a mortgage or conferred by an Act;

(h) actions grounded on accident, mistake or other equitable ground of relief not specifically dealt with in paragraphs (a) to (g), within six years after the discovery of the cause of action;

(j) any other action not specifically provided for in this Act or any other Act, within six years after the cause of action arose.

Exception

(2) Nothing in subsection (1) extends to any action where the time for bringing the action is specially limited by an Act.

DISABILITIES

Person under disability

5. Where a person entitled to bring any action mentioned in paragraphs 2(1)(c) to (i) is under disability at the time the cause of action arises, the person may bring the action within the time limited by this Act with respect to the action or at any time within two years after the person first ceased to be under disability.

PART I

LIMITATION PERIODS

SPECIFIED ACTIONS

Limitation periods

2. (1) The following actions must be commenced within and not after the following times:

(e) actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose;

(f) actions for the recovery of money, except in respect of a debt charged on land, whether recoverable as a debt or damages or otherwise, and whether on a recognizance, bond, covenant or other specialty or on a simple contract, express or implied, and actions for an account or for not accounting, within six years after the cause of action arose;

RIGHT TO TAKE PROCEEDINGS

Definitions

16. In this Part,

"claimant"

"claimant" means the person taking the proceedings to recover land where there is no predecessor;

"predecessor"

"predecessor" means the person to whom the right to take proceedings to recover land accrues and through whom another person claims.

PART III

LAND

Land Titles Act

17. This Part is subject to the *Land Titles Act*.

R.S.N.W.T. 1988, c. 8(Supp.), s. 215.

Recovery of land

18. No person shall take proceedings to recover any land except

(a) within 10 years after the time at which the right to do so first accrued to the person through whom he or she claims; or

(b) if the right did not accrue to such a predecessor, then within 10 years after the time at which the right first accrued to the person taking the proceedings.

PART VII**GENERAL***Possession of land*

42. (1) No person shall be deemed to have been in possession of land, within the meaning of this Act, merely by reason of having made an entry on the land.

Claim on land

(2) No continual or other claim on or near any land preserves any right of making any entry or distress or bringing an action.

Extinguishment of right

43. At the determination of the period limited by this Act, to any person for taking proceedings to recover any land, rent charge or money charged on land, the

right and title of that person to the land, or rent charge or the recovery of the money out of the land is extinguished.

Persons under disability

45. (1) When at the time at which the right to take any proceedings referred to in Part II, III or IV first accrued to a person, the person was under disability, the person or a person claiming through him or her may, notwithstanding anything in this Act, take proceedings at any time within six years after the person to whom the right first accrued first ceased to be under disability or died, whichever event first happened, except that if he or she died without ceasing to be under disability, no further time to take proceedings shall be allowed, by reason of the disability of any other person.

Ultimate limit

(2) Notwithstanding subsection (1), no proceedings shall be taken by a person under disability at the time the right to do so first accrued to the person or by any person claiming through him or her, except within 30 years after that time.

Right to certain uses by prescription

48. No right to the access and use of light or any other easement, right in gross or *profit à prendre* is acquired by any person by prescription and no such right shall be deemed to have been so acquired before April 15, 1948.

The above excerpts of the *Limitation of Actions Act* are from chapter L-8 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- R.S.N.W.T. 1988, c. 8(Supp.), s. 215; RA 26.10.88; CIF 19.07.93 (SI-008-93).
- S.N.W.T. 1995, c. 8; RA 24.02.95.

Motor Vehicles Act

Excerpts from
Chapter M-16, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"highway"

"highway" means a road, place, bridge or structure, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage of vehicles and includes

(a) a privately or publicly owned area that is designed and primarily used for the parking of vehicles, other than the driveway of a private dwelling,

(b) where a plan of survey or other instrument establishes a highway, the area between the boundary lines of the highway as shown on the plan of survey or instrument,

(c) a sidewalk, pathway, ditch or shoulder adjacent to and on either side of the travelled portion of the road or place and the area between the sidewalk, pathway, ditch or shoulder and the travelled portion of the road or place, and

(d) a road on a frozen body of water or water course or a road that can be used for only a portion of a year;

The above excerpts of the *Motor Vehicles Act* are from chapter M-16 of the *Revised Statutes of the Northwest Territories, 1988*. The definition of "highway" has not been amended since the coming into force of this Act.

Planning Act

Excerpts from
Chapter P-7, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"building"

"building" includes any structure, erection, stockpile, sign or fixture built or placed on land;

"council"

"council" means the council of a municipality;

"development"

"development" means

(a) the carrying out of any construction or excavation or other operations in, on, over or under land, or

(b) the making of any change in the use or the intensity of use of any land or building;

"development scheme"

"development scheme" means a development scheme referred to in section 7;

"Director"

"Director" means the Director of Planning appointed under section 49;

"general plan"

"general plan" means a plan referred to in section 2;

"highway"

"highway" means a primary highway designated as such under the *Public Highways Act* or a major roadway designated as a highway by a planning commission or shown as a highway on a general plan;

"land titles office"

"land titles office" means a land titles office established under the *Land Titles Act*;

"parcel"

"parcel" means an area of land the boundaries of which are

(a) shown on a plan registered in a land titles office, and

(b) described in the certificate of title to the land, and that has not been divided into smaller areas by any plan or instrument registered in a land titles office;

"plan of subdivision"

"plan of subdivision" means a plan of survey registered in a land titles office for the purpose of subdividing a parcel or parcels of land;

"reserve"

"reserve" means a parcel of land set aside for the uses set out in section 47;

"subdivision"

"subdivision" means a division of a parcel by means of a plan of subdivision, plan or survey, agreement or any instrument, including a caveat, transferring or creating an estate or interest in part of the parcel.

R.S.N.W.T. 1988, c. 8(Supp.), ss. 230 - 240.

PART I

MUNICIPAL PLANNING

GENERAL PLANS

Preparation of general plan

2. A council may resolve to prepare a general plan describing the manner in which the development or redevelopment of a municipality may best be organized and carried out, having regard to considerations of orderliness, economy and convenience.

Requirements of general plan

3. A general plan must

(a) be prepared under the direction of qualified planning officers or qualified planning consultants, to be appointed by and responsible to the council;

(b) be prepared on the basis of surveys and studies of land use, population growth, the economic base of the municipality, the needs of the municipality relating to transportation, communication, public services and social services and any other factors that are relevant to the preparation of a general plan;

(c) include a map showing the division of the land that is to be included in the general plan into areas

of permitted land use classes that the council considers necessary for the purposes of the general plan;

(d) include proposals as to the content of a zoning by-law;

(e) include proposals relating to the provision of public roadways, services, public buildings, schools, parks and recreation areas and the reservation of land for these and other public and community purposes;

(f) include a schedule setting out the sequence in which specified areas of land may be developed or redeveloped and in which the public services and facilities referred to in paragraph (e) should be provided in specified areas;

(g) include proposals relating to the financing and programming of public development projects and capital works to be undertaken by the municipality or other public authorities having jurisdiction within the area included in the general plan; and

(h) include any other written statements, reports, charts and drawings that may be necessary to express and illustrate the proposals contained in the general plan.

Adoption of general plan

4. A council may, in accordance with sections 25 to 29, by by-law, adopt a general plan.

Zoning by-law

6. Where a general plan is adopted under section 4, the council shall, immediately after adoption of the general plan, proceed with the enactment of a zoning by-law to include those areas of land affected by the general plan in respect of which no control over development has been exercised.

DEVELOPMENT SCHEMES

Development schemes

7. (1) At any time after the adoption of a general plan, a council may prepare, and by by-law adopt, a development scheme for the purpose of one or both of the following:

(a) ensuring that any proposal contained or to be included in the general plan will be carried out or will be carried out in a particular manner;

(b) amplifying the details of any proposal contained or to be included in the general plan.

Powers of council

(2) Without limiting the generality of subsection (1), a council, by a development scheme, may

(a) provide for the acquisition, assembly, consolidation, subdivision and sale or lease by the municipality of lands and buildings that are necessary to carry out the development scheme;

(b) reserve land for future acquisition as the site or location of any public roadway, service or building or for a school, park or other open space and make agreements with the owners of the land that will permit its acquisition and use for those purposes;

(c) specify the manner in which any particular area of land is to be used, subdivided or developed and regulate or prohibit the construction of buildings that would interfere with the carrying out of the development scheme; and

(d) make available any land for any use at any particular time including, but without restricting the generality of this power, residential, commercial, recreational, institutional and industrial uses.

Contents of development scheme

8. A development scheme must describe and set out

(a) the manner in which the development scheme is intended to implement a proposal or part of a proposal contained or to be contained in the general plan;

(b) the land affected by the development scheme, and the names and addresses of the owners of that land; and

(c) the details of

(i) the development to be carried out,

(ii) any land to be reserved and the manner in which the reservation is to be effected, or

(iii) the manner in which land affected by the development scheme is to be subdivided.

Effective date

9. A development scheme comes into force on its adoption by by-law in accordance with sections 25 to 29.

ZONING BY-LAW

Zoning by-law

13. A council may pass a zoning by-law to regulate the use and development of land within the municipality and for that purpose may

- (a) divide the municipality into zones of permitted land use classes of the number, shape and area that it considers advisable;
- (b) specify the purposes for which buildings and land may be used; and
- (c) regulate or prohibit the use of the land or buildings referred to in paragraph (b) for any other purpose.

Contents of zoning by-law

15. (1) A zoning by-law may contain provisions for the purpose of

- (a) regulating in any zone
 - (ii) the depth, dimensions and area of yards, courts, off-street parking areas and other open spaces to be provided around buildings, and the maintenance of these spaces,
 - (iii) the placement, location, arrangement and maintenance of buildings on their sites and their relationship to other buildings and to streets and property lines,
- (c) specifying as to any zone
 - (i) the minimum site area and dimensions of parcels required for particular sizes of buildings or uses of lands or of buildings,

Development officer

16. (1) A zoning by-law must

- (a) provide for the appointment of a development officer, who shall be an official of the municipality;
- (b) authorize the development officer to receive applications for development permits; and
- (c) require that where an application for a development permit is approved, an official of the municipality must post a notice of the approval conspicuously on the property for which the application has been approved.

Other powers of development officer

(2) A zoning by-law may authorize a development officer

- (a) to consider and decide on applications for development permits; and
- (b) to exercise, on behalf of the council, the powers of the council under section 20.

ENACTMENT OF BY-LAWS

Enactment of by-laws

24. Sections 25 to 29 apply to zoning by-laws and by-laws adopting general plans and development schemes.

Approval and effect of by-law

27. Where the Minister approves a by-law or revised by-law, the council may give the by-law third reading, but no by-law shall have any force or effect until it has received third reading.

Documents as part of by-law

28. (1) A zoning map and a schedule of permitted and prohibited land uses accompanying or appended to a zoning by-law shall be deemed to be part of the zoning by-law.

Idem

(2) All maps and documents constituting a general plan shall be deemed to be part of the by-law in which a development scheme is adopted.

Idem

(3) All maps, plans, drawings, specifications and documents describing a development scheme and referred to in or annexed to a by-law shall be deemed to be part of a by-law by which a development scheme is adopted.

Amendment or repeal of by-law

29. (1) A council may, by by-law, amend or repeal any by-law adopting a general plan or a development scheme or any zoning by-law.

Application

(2) Subject to subsection (3), sections 25 to 28 apply to an amending or repealing by-law made under subsection (1).

Certificate of Director

(3) Where the Director certifies that an amendment to be made by a proposed by-law is only for the purpose of clarifying a provision of the existing by-law, a council need not publish or post an official notice of its intention to pass an amending by-law or hold a public hearing pursuant to section 25.

Copies

31. A council that has adopted a general plan or development scheme or has passed a zoning by-law shall without delay prepare copies of it, together with

any incorporated amendments, maps and schedules, which shall be made available to the general public at reasonable cost.

ENFORCEMENT OF MUNICIPAL PLANNING

Observance of conditions

37. Where a council, an approving authority or an appeal board has the power under this Act to impose certain requirements or limitations as a condition of issuing a permit or otherwise authorizing the subdivision or development of land, the council may enter into an agreement with the owner of the land with respect to the observance of the requirements or limitations and the agreement shall be deemed to be a covenant running with the land.

PART III

GENERAL

DIRECTOR OF PLANNING

Director of Planning

49. The Minister shall appoint a director of Planning.

REGULATIONS

Regulations respecting subdivision

54. The Commissioner, on the recommendation of the Minister, may make regulations generally for the

purpose of controlling the subdivision of land, and without limiting the generality of this power to make regulations, may make regulations prescribing

- (a) the procedure to be followed by an applicant for approval of a proposed subdivision of land;
- (b) rules governing
 - (i) the laying out and dimensions of lots, blocks and other units of land
 - (ii) the laying out and minimum widths, lengths and maximum grades of roads, streets and lanes, and
 - (iii) the locations, areas and shapes of reserves;
- (c) the locations where subdivisions of land intended for specific types of development and use are permitted or prohibited; and
- (d) the forms to be used, the approvals to be obtained and the fees to be paid by a person applying for approval of a proposed subdivision of land.

Other regulations

55. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing the manner and form in which development schemes must be prepared;
- (b) prescribing forms to be used for the purposes of this Act; and
- (c) respecting any other matter that the Commissioner considers necessary to carry out the intent of this Act.

Coming into Force

Planning Act

R.S.N.W.T. 1988, c. P-7; CIF 15.07.91 (SI-006-91) ex. ss 38 to 48

ss. 38 to 48 NIF

The above excerpts of the *Planning Act* are from chapter P-7 of the *Revised Statutes of the Northwest Territories, 1988* as amended by :

- R.S.N.W.T. 1988, c. 8(Supp.), ss. 230 - 234; RA 26.10.88; CIF 19.07.93 (SI-008-93).
- R.S.N.W.T. 1988, c. 67(Supp.); RA 11.04.90.

Public Highways Act

Excerpts from
Chapter P-13, R.S.N.W.T. 1988
As amended

INTERPRETATION

Definitions

1. In this Act,

"council"

"council" means the council of a municipal corporation;

"highway"

"highway" means a highway as defined in the *Motor Vehicles Act*;

"municipal corporation"

"municipal corporation" means a corporation established or continued as

(a) a city, town or village under the *Cities, Towns and Villages Act*,

(b) a hamlet under the *Hamlets Act*, or

(c) a charter community under the *Charter Communities Act*;

"municipality"

"municipality" means the geographic area of jurisdiction of a municipal corporation;

"primary highway"

"primary highway" means a highway or proposed highway designated as a primary highway under subsection 2(1);

CONSTRUCTION AND MAINTENANCE OF HIGHWAYS

Designation of primary highway

2. (1) The Commissioner may, by order, designate as a primary highway

(a) any existing highway, or

(b) any proposed highway,

and may specify a route number for the primary highway.

Description of highway

(2) In an order under subsection (1), the existing highway or the land to be used for the proposed highway is sufficiently described if its location is indicated on a map attached to the order showing the route of the primary highway.

Title

(3) No order shall be made under subsection (1) in respect of an existing highway or proposed highway within a municipality unless the title to the highway or the land to be used for the proposed highway is vested in Her Majesty.

Control of primary highway

3. Notwithstanding anything in the *Charter Communities Act*, *Cities, Towns and Villages Act*, *Hamlets Act* or *Motor Vehicles Act*, all primary highways are subject to the direction, control and management of the Commissioner.

Purchase and expropriation of land

7. The Commissioner may, with the consent of a council, purchase or expropriate land within the municipality represented by that council for the purpose of a highway.

CONTROL OF ACCESS AND ADJACENT DEVELOPMENT

Abrogation of common law rights

13. (1) A person

(a) is not entitled as of right to any direct access to or from a primary highway from or to any land adjacent to it; and

(b) does not have any right of easement, light, air or view to, from or over a primary highway.

Compensation

(2) No person is entitled as of right to any compensation solely by reason of the designation of a highway as a primary highway.

Closing of access to highways

16. (1) The Commissioner may at any time close

- (a) any highway providing access to or from a primary highway; or
- (b) any means of access between a primary highway and land adjacent to a primary highway.

GENERAL

Regulations

30. The Commissioner, on the recommendation of the Minister, may make regulations

- (h) in respect of any matters that are necessary to carry out the purposes and provisions of this Act.

The above excerpts of the *Public Highways Act* are from chapter P-13 of the *Revised Statutes of the Northwest Territories, 1988* as amended by:

- S.N.W.T. 1995, c. 11, s. 44; RA 24.02.95.

Tenants in Common Act

Excerpts from
Chapter T-1, R.S.N.W.T. 1988
As amended

Tenants in common

1. Where land or an interest in land is granted, transferred, conveyed, assured, devised or assigned
 - (a) to two or more persons, other than executors or trustees, and
 - (b) in fee simple or for a lesser estate, whether legal or equitable,

the persons take the land or interest in land as tenants in common and not as joint tenants unless an intention that the persons are to take as joint tenants is clear on the face of the letters patent, transfer, conveyance, assurance, will or other assignment.

The above excerpts of the *Tenants in Common Act* are from chapter T-1 of the *Revised Statutes of the Northwest Territories, 1988*.

REGULATIONS OF THE NORTHWEST TERRITORIES

Introduction

Contents

This Chapter contains excerpts or summaries of regulations made under the authority of an Act of the Legislature of the Northwest Territories. The excerpts come from the *Revised Regulations of the Northwest Territories, 1990* and from the *Northwest Territories Gazette* Part II.

The *Revised Regulations of the Northwest Territories, 1990* is a consolidation and revision of the regulations which were in force on 31 December, 1990. Regulations and statutory instruments made and in force after 31 December, 1990, and on or before the day the Revised Regulations came into force (15 July 1992) are included in a supplement to the Revised Regulations. Regulations and statutory instruments that came into force after 15 July 1992 are required to bring the Revised Regulations to date. These regulations and statutory instruments are published in the *Northwest Territories Gazette* Part II.

Caution

The excerpts in this Part of the Manual have been prepared for convenience of reference only and have no official sanction. Reference to excerpts is at the user's discretion. The Legal Surveys Division, Department of Natural Resources, assumes no responsibility for any reproduction of the excerpts.

For all purposes of interpreting and applying the law, users should consult the regulations as proclaimed by Order of the Commissioner and which are published in:

- (a) the *Revised Regulations of the Northwest Territories, 1990*; or

- (b) the *Northwest Territories Gazette* Part II.

The above mentioned publications are available in most public libraries. They may also be purchased from the Territorial Printer, Northwest Territories, Yellowknife, Northwest Territories.

Abbreviations

The following abbreviations are used in this Part of the Manual:

| <u>Abbreviation</u> | <u>Definition</u> |
|----------------------|---|
| c. | chapter |
| CIF | came in force |
| ex. | except |
| R-123-96 | Regulation number |
| R.R.N.W.T. 1990 | <i>Revised Regulations of the Northwest Territories, 1990</i> |
| s. | section |
| Sch. | Schedule |
| SI-123-96 | Statutory Instrument number |
| ss. | sections |
| Supp. | Supplement |

Organization of Regulations

The regulations are compiled in alphabetical order under the Act under which they were made. Each regulation is documented similarly to the regulations in Chapter A3. See Chapter A3 (Organization of Regulations) for a detailed explanation.

In force dates

Regulations originating from the *Revised Regulations of the Northwest Territories, 1990* came into force on 15 July, 1992. Any other regulation or statutory instrument comes into

force on the day it is registered unless there is a provision specifying that the regulation, or parts thereof, comes into force at a later date. In this Chapter, references to an enactment coming into force after 15 July, 1992 contain the coming into force date inside parentheses.

For example, a reference such as

- R-123-96 (15.07.96).

means that the regulation registered under R-123-96 came into force on 15 July, 1996.

How current are the excerpts?

This Chapter contains only regulations which are in force on the applicable date indicated in the Table of Consolidation preceding Part A of this Manual. All excerpts are updated to that date.

Development Area Regulations

(Area Development Act)

Summary only

Development area regulations are made in accordance with the provisions of section 6 of the *Area Development Act*. A development area may be designated in any part of the Northwest Territories where the Commissioner considers that it is necessary in the public interest to regulate the orderly development of that area.

Development area regulations may provide for the orderly development of land within a specified area, respecting (but not limited to) :

- (a) the zoning of the area, including the allocation of land in the area for agricultural, residential, business, industrial, educational, public or other purposes;
- (b) the regulation or prohibition of the erection, maintenance, alteration, repair or removal of buildings;

- (c) streets, roads, lanes, sidewalks and parks.

Table A5-1 contains a non-exhaustive list of existing development area regulations. The development areas are compiled in alphabetical order. Each development area regulation refers to the regulation number establishing it together with the date the regulation came into force. References to any amendment are also included.

It may be necessary to read a development area regulation to determine if the lands dealt with in a survey are affected. Excerpts of these regulations are not provided in this manual. Copies are available from the Territorial Printer, Northwest Territories, Yellowknife, N.W.T. The regulations are also published in Part II of the *Northwest Territories Gazette*.

TABLE A5-1

DEVELOPMENT AREA REGULATIONS

| Development Area | Regulation No. | CIF Date |
|--|--------------------------------------|----------------------|
| Enterprise Corridor Development Area Regulations | R-036-92 | 24.03.92 |
| Enterprise Development Area Regulation | R-037-92 | 24.03.92 |
| Inuvik Watershed Development Area Regulations | R.R.N.W.T. 1990, c. A-13 | 15.07.92 |
| Mackenzie Development Area Regulations | R.R.N.W.T. 1990, c. A-14 R-114-93 | 15.07.92 17.11.93 |
| Norman Wells Development Regulations | R.R.N.W.T. 1990, c. A-15 | 15.07.92 |
| Resolute Bay Development Area Regulations | R.R.N.W.T. 1990, c. A-16 | 15.07.92 |
| Strathcona Sound Development Area Regulations | R.R.N.W.T. 1990, c. A-17 | 15.07.92 |
| Yellowknife Watershed Development Area Regulations | R.R.N.W.T. 1990, c. A-18 | 15.07.92 |

Orders Respecting Municipal Corporations and their Boundaries

(Cities, Towns and Villages Act, Charter Communities Act and Hamlets Act)

Summary only

Incorporated municipalities in the Northwest Territories may adopt various by-laws not inconsistent with the enabling legislation, including zoning by-laws. Such by-laws are applicable only within the municipality's boundaries.

Boundaries of municipal corporations are delimited in Orders issued under the authority of:

- (a) sections 4 or 7 of the *Cities, Towns and Villages Act* for municipalities incorporated as cities, towns or villages;
- (b) sections 4 or 7 of the *Hamlets Act* for municipalities incorporated as hamlets; and
- (c) sections 6 or 9 of the *Charter Communities Act* for municipalities incorporated as charter communities.

Table A5-2 contains a list of municipal corporations. The municipalities are compiled in alphabetical order under the class of municipality. Each municipal corporation refers to the order establishing it together with the date the order came into force. References to any amendment are also included.

It may be necessary to read an order describing the boundaries of a municipality to determine if the lands dealt with in a survey are subject to the municipality's by-laws. Excerpts of these orders are not provided in this manual. Copies are available from the municipal corporations or the Territorial Printer, Northwest Territories, Yellowknife, N.W.T. These orders are also published in Part II of the *Northwest Territories Gazette*.

TABLE A5-2

ORDERS ESTABLISHING MUNICIPAL CORPORATIONS AND FIXING THEIR BOUNDARIES

| Class of Municipality | Name of Municipal Corporation | Regulation No. | CIF Date |
|-----------------------|---------------------------------------|--|----------------------|
| City | Yellowknife | R.R.N.W.T. 1990, c. C-5 | 15.07.92 |
| Town | Fort Smith | R.R.N.W.T. 1990, c. C-6 R-117-94 | 15.07.92 22.12.94 |
| | Hay River | R.R.N.W.T. 1990, c. C-7 R.R.N.W.T. 1990, c. C-7(Supp.) | 15.07.92 15.07.92 |
| | Inuvik | R.R.N.W.T. 1990, c. C-8 | 15.07.92 |
| | Iqaluit | R.R.N.W.T. 1990, c. C-9 R-077-92 | 15.07.92 10.09.92 |
| | Norman Wells | R.R.N.W.T. 1990, c. C-11 R-040-92 | 15.07.92 12.04.92 |
| | | | |
| Village | Fort Simpson | R.R.N.W.T. 1990, c. C-10 | 15.07.92 |
| Charter Community | Tsiigehtchic (Arctic Red River) | R.R.N.W.T. 1990, c. S-11 R-053-93 | 15.07.92 17.06.93 |
| | Déline | R.R.N.W.T. 1990, c. H-12 R-013-93 | 15.07.92 01.04.93 |
| | K'ásho Got'iné | R-041-95 | 11.04.95 |
| | Wha ti | R-040-95 | 11.04.95 |
| | | R-067-96 | 26.06.96 |

| Class of Municipality | Name of Municipal Corporation | Regulation No. | CIF Date |
|-----------------------|-------------------------------|--------------------------|----------|
| Hamlet | Aklavik | R.R.N.W.T. 1990, c. H-1 | 15.07.92 |
| | Arctic Bay | R.R.N.W.T. 1990, c. H-2 | 15.07.92 |
| | Arviat | R.R.N.W.T. 1990, c. H-3 | 15.07.92 |
| | | R-003-95 | 03.01.95 |
| | Baker Lake | R.R.N.W.T. 1990, c. H-4 | 15.07.92 |
| | Broughton Island | R.R.N.W.T. 1990, c. H-5 | 15.07.92 |
| | | R-075-92 | 10.09.92 |
| | Cambridge Bay | R.R.N.W.T. 1990, c. H-6 | 15.07.92 |
| | Cape Dorset | R.R.N.W.T. 1990, c. H-7 | 15.07.92 |
| | Chesterfield Inlet | R.R.N.W.T. 1990, c. H-8 | 15.07.92 |
| | Clyde River | R.R.N.W.T. 1990, c. H-9 | 15.07.92 |
| | | R-002-95 | 03.01.95 |
| | Coppermine | R.R.N.W.T. 1990, c. H-10 | 15.07.92 |
| | Coral Harbour | R.R.N.W.T. 1990, c. H-11 | 15.07.92 |
| | | R-004-95 | 03.01.95 |
| | Fort Liard | R.R.N.W.T. 1990, c. H-13 | 15.07.92 |
| | Fort McPherson | R.R.N.W.T. 1990, c. H-14 | 15.07.92 |
| | Tulita | R.R.N.W.T. 1990, c. H-15 | 15.07.92 |
| | | R-069-93 | 23.07.93 |
| | | R-171-96 | 12.09.96 |
| | Fort Providence | R.R.N.W.T. 1990, c. H-16 | 15.07.92 |
| | Gjoa Haven | R.R.N.W.T. 1990, c. H-17 | 15.07.92 |
| | Grise Fiord | R.R.N.W.T. 1990, c. H-18 | 15.07.92 |
| | Hall Beach | R.R.N.W.T. 1990, c. H-19 | 15.07.92 |
| | | R-005-95 | 03.01.95 |
| | Holman | R.R.N.W.T. 1990, c. H-20 | 15.07.92 |
| | Igloodik | R.R.N.W.T. 1990, c. H-21 | 15.07.92 |
| | Lake Harbour | R.R.N.W.T. 1990, c. H-23 | 15.07.92 |
| | | R-076-92 | 10.09.92 |
| | Pangnirtung | R.R.N.W.T. 1990, c. H-24 | 15.07.92 |
| | | R-006-95 | 03.01.95 |
| | Paulatuk | R.R.N.W.T. 1990, c. H-25 | 15.07.92 |
| | Pelly Bay | R.R.N.W.T. 1990, c. H-26 | 15.07.92 |
| | | R-007-95 | 03.01.95 |
| | Pond Pilet | R.R.N.W.T. 1990, c. H-27 | 15.07.92 |
| | Rae-Edzo | R.R.N.W.T. 1990, c. H-28 | 15.07.92 |
| | Rankin Inlet | R.R.N.W.T. 1990, c. H-29 | 15.07.92 |
| | | R-008-95 | 03.01.95 |
| | Repulse Bay | R.R.N.W.T. 1990, c. H-30 | 15.07.92 |
| | Relolute Bay | R.R.N.W.T. 1990, c. H-31 | 15.07.92 |
| | Sacks Harbour | R.R.N.W.T. 1990, c. H-32 | 15.07.92 |
| | Sanikiluaq | R.R.N.W.T. 1990, c. H-33 | 15.07.92 |
| | | R-009-95 | 03.01.95 |
| | Taloyoak | R.R.N.W.T. 1990, c. H-34 | 15.07.92 |
| | | R-060-92 | 01.07.92 |
| | Tuktoyaktuk | R.R.N.W.T. 1990, c. H-35 | 15.07.92 |
| | Whale Cove | R.R.N.W.T. 1990, c. H-36 | 15.07.92 |

Commissioner's Land Regulations*(Commissioner's Land Act)*

Excerpts from

Chapter C-13, R.R.N.W.T. 1990

As amended

Interpretation

1. In these regulations,

"Act" means the *Commissioner's Land Act* as amended from time to time;

"agreement for sale" means an agreement to sell Commissioner's land to a person applying to purchase such land;

"application" means an application referred to in section 10, unless the context requires otherwise;

"Deputy Minister" means the Deputy Minister of the Department of Municipal and Community Affairs and any person authorized in writing by the Commissioner to act on the Commissioner's behalf;

"land agent" means a person designated under section 4;

"lease" means a lease of Commissioner's land, but does not include a disposal of timber rights;

"notification" means a direction in a form prescribed under the *Territorial Lands Act* (Canada) to the Registrar of the Northwest Territories Land Registration District to issue a certificate of title for Commissioner's land to the person named in the direction.

R-085-92.

Application of Regulations

2. These regulations apply to the sale, lease or other disposition of Commissioner's land or any interest in Commissioner's land.

Administration

3. The Deputy Minister shall administer the Act and these regulations so as to make Commissioner's land available when and where it is required consistent with the protection of the public interest.

R-085-92.

4. The Deputy Minister shall designate persons to be land agents and specify the areas of the Territories in respect of which their powers and duties under the Act and these regulations shall be exercised.

R-085-92.

5. (1) Every land agent has the power to accept or reject applications in accordance with the Act and these regulations and subject to the directions of the Deputy Minister.

(2) Except as specifically provided in these regulations, no land agent has the authority to grant an interest in Commissioner's land.

R-085-92.

6. The Deputy Minister is authorized on behalf of the Commissioner, under paragraphs 12(a) and (b) of the Act,

- (a) to execute leases and agreements for sale;
- (b) to cancel agreements for sale and terminate leases;
- (c) to give consent to assignments of leases and agreements for sale;
- (e) to issue quarrying permits; and
- (f) to sign notifications.

R-085-92.

8. Where in the opinion of the Deputy Minister the public interest would be served by advertising Commissioner's land that is intended for sale to the public, he or she shall call for public tenders by advertising in a newspaper circulating in the area where the land is located.

R-085-92.

9. No interest in Commissioner's land shall be sold, leased or otherwise disposed of unless the Deputy Minister is satisfied that

- (a) the applicant for such land has discharged the obligations and performed the covenants and agreements that are required of him or her before the sale, lease or other disposal;
- (b) such land is no larger in area than is reasonable for the purpose for which the land is required; and
- (c) such sale or lease is fair and equitable and in accordance with the public interest.

R-085-92.

Applications for Land

10. (1) Where a person desires to purchase, lease or obtain any interest in Commissioner's land, that person shall complete an application in the form provided by the Deputy Minister and submit it to the land agent for the area in which the land is situate.

(3) The acceptance of an application or a deposit referred to in subsection (2) does not confer on the applicant any right, title or interest in the land applied for.

(7) Where two or more persons apply for the same land, the person who first applies has priority.

R-085-92.

11. (1) Where application is made to purchase or lease Commissioner's land that is not surveyed, the land agent shall accompany the applicant to the site of the land, prepare a sketch of the land and if he or she deems it necessary mark off on the ground the boundaries of the land.

(2) In timbered areas, the boundaries of the land applied for shall be clearly marked.

Reservations

13. (1) Every sale or lease of Commissioner's land, other than subdivided land that is contained in a townsite shall be deemed to contain the following reservation, namely, that where the land sold has an area exceeding 4 ha, there shall be implied a condition that if the owner subdivides the land or any portion of the land into townsite lots, 1/3 of the lots in the land so subdivided shall revert to the Crown to be held in the name of the Commissioner.

(2) Lots to which the Commissioner is entitled under subsection (1) shall be selected as follows: the owner shall first select two lots and the land agent shall then select one lot for the Commissioner and this shall be repeated until all lots are selected.

14. Every sale or lease of Commissioner's land shall be deemed to contain, unless otherwise stated, in addition to such terms and conditions as the Deputy Minister may deem necessary, a reservation of

- (a) all mines and of all minerals whether solid, liquid or gaseous which may be found to exist within, upon, or under such lands together with the full powers to work them and for that purpose to enter upon, use and occupy the lands or so much of the lands and to such an extent as may be necessary for the effectual working and extracting of the said minerals; and
- (b) the right to enter upon the land for the purpose of installing and maintaining any public utility.

R-085-92.

15. Every lease of Commissioner's land shall be deemed to contain, unless otherwise stated, in addition to such terms and conditions as the Deputy Minister may deem necessary, a reservation of

- (a) the right to cut timber on the land; and
- (b) the right to quarry the land.

R-085-92.

Sale of Commissioner's Land

16. Where an application to purchase Commissioner's land is approved, unless the application is withdrawn by the applicant or as otherwise agreed by the Deputy Minister, the applicant shall enter into an agreement for sale in the form agreed to or provided by the Deputy Minister.

R-085-92.

Lease of Commissioner's Land

18. (1) Every lease, other than a quarrying lease, shall be for a term not exceeding 30 years and in the form agreed to or provided by the Deputy Minister.

(2) On the expiration of a lease mentioned in subsection (1), the Deputy Minister may grant another lease to the lessee for a further term not exceeding 30

years upon such terms and conditions as the Deputy Minister deems fit.

R-085-92.

21. There shall be deemed to be implied in every lease a covenant that the lessee shall not use the land or allow it to be used for any purpose other than that stated in the lease.

Quarrying Leases

22. (1) A person who desires to obtain a lease of Commissioner's land for the purpose of quarrying and taking limestone, granite, slate, marble, gypsum, marl, gravel, loam, sand, clay, volcanic ash or stone from the Commissioner's land shall make application as provided by section 10 and shall stake lands in the manner prescribed in this section.

(2) In the case of loam the area of a quarrying lease shall not exceed 8 ha, and in the case of any other material mentioned in subsection (1) the area shall not exceed 65 ha, and the length of any area shall not exceed twice the breadth.

(3) Land staked for a quarrying lease shall be rectangular in form except where a boundary of a previously staked tract is adopted as common to both areas.

(4) The Deputy Minister shall not issue a quarrying lease to an applicant unless, in the Deputy Minister's opinion, the materials to be quarried are to be used or marketed immediately, the land contains such materials in economic quantities, and use of the land applied for quarrying purposes is not significantly detrimental to the surrounding area.

23. (1) The term of a quarrying lease shall not exceed 10 years.

R-085-92.

26. Where in the opinion of the Deputy Minister the lessee has complied with the terms of his or her quarrying lease and the regulations, the Deputy Minister may grant another lease for a term not exceeding 10 years subject to such terms and conditions as he or she deems fit.

R-085-92.

Government Employees Limitations

27. (1) No employee of or under the Government of the Northwest Territories shall, directly or indirectly, in his or her own name or in that of any other person, purchase or acquire any Commissioner's land or any interest in Commissioner's land nor shall he or she be interested as a share holder or otherwise in any corporation or company purchasing or acquiring such land or any interest therein except with the approval of the Commissioner.

(2) Every person who acquires land in contravention of subsection (1) shall forfeit to the Commissioner his or her interest in the land so acquired without compensation or reimbursement and every employee of the Government of the Northwest Territories who violates subsection (1) shall be liable to summary dismissal from his or her employment.

Assignment

29. (1) No assignment of a lease or an agreement for sale is binding on the Commissioner unless it has been approved by the Commissioner or a person designated by him or her for the purpose.

(2) Any person who surrenders a lease shall execute a surrender of lease in the form agreed to or provided by the Deputy Minister.

R-085-92.

The *Commissioner's Land Regulations* are made pursuant to sections 12 and 13 of the *Commissioner's Land Act*. The excerpts that appear above are from chapter C-13 of the *Revised Regulations of the Northwest Territories, 1990* as amended by:

- R-085-92 (30.09.92).
- R-089-94 (23.08.94).

Land Titles Plans Regulations

(Land Titles Act)

Excerpts from
R-067-93 (19.07.93)
As amended

INTERPRETATION

1. In these regulations,

"Act" means the *Land Titles Act*;

"explanatory plan" means a plan commonly known as an "explanatory plan" or other administrative plan prepared under the *Canada Lands Surveys Act*.

SKETCH AND PLAN APPROVAL

2. Sections 3 to 6 do not apply to a descriptive plan referred to in section 97 of the Act.

3. (1) Before a Canada Lands Surveyor

(a) conducts a survey on which a plan that is to be submitted for registration is to be based, in whole or in part, or

(b) makes a plan other than a plan referred to in paragraph (a) that is to be submitted for registration,

the Canada Lands Surveyor must, subject to subsection 4(2), submit a sketch of the proposed plan to the Surveyor General.

(2) Where the proposed plan in respect of which a sketch is submitted under subsection (1) is a descriptive plan, the Surveyor General may give instructions to the Canada Lands Surveyor who submitted the sketch for the preparation of the proposed descriptive plan, including the identification, by number or letter, of the lots and other parcels that are to be created by the plan.

4. (1) This section applies to the submission of a sketch under subsection 3(1) for a proposed plan that, on completion and before submission for registration, requires the approval of the Minister responsible for the *Planning Act* or a person designated by the Minister to

approve such plans under subparagraph 90(b)(iii) of the Act or paragraph 95(a) of the Act.

(2) Before a sketch of a proposed plan referred to in subsection (1) is submitted to the Surveyor General, the sketch must be submitted to and approved by the Minister or his or her designate.

5. (1) After a plan has been completed and the plan has been signed by any owner or encumbrancee required to sign the plan under the Act, the Canada Lands Surveyor who made the plan must, subject to section 6, submit the plan to the Surveyor General for approval before the plan is submitted for registration.

(2) The Surveyor General may approve a plan received under subsection (1) and endorse the plan to indicate his or her approval in the manner required in paragraph 7(e) if the Surveyor General is satisfied that the plan complies with any instructions that the Surveyor General has given under subsection 3(2) or under section 17 of the *Canada Lands Surveys Act*.

6. After a plan is endorsed with the approval of the Surveyor General under subsection 5(2), the plan must, if the plan is one referred to in subsection 4(1), be submitted for approval to the Minister responsible for the *Planning Act* or a person designated by the Minister to approve such plans before the plan is submitted for registration.

REGISTRATION REQUIREMENTS

General Requirements

7. A plan submitted to a Registrar for registration
 - (a) must be made on a medium satisfactory to the Registrar;

(b) must be made and signed in indelible black ink, or where the plan is made on plastic material, in indelible black adhesion type ink;

(c) must not be coloured;

(d) must be rectangular and the lesser of its two dimensions must not exceed 85 cm;

(e) must, if the plan is not a plan referred to in section 97 of the Act, be endorsed with a statement, signed by the Surveyor General, indicating that the Surveyor General is satisfied that the plan complies with any instructions that the Surveyor General has given under subsection 3(2) or under section 17 of the *Canada Lands Surveys Act*;

(f) must, if the plan is required by section 6 to be submitted to the Minister responsible for the *Planning Act* or his or her designate, be endorsed with a statement, signed by the Minister or his or her designate, indicating that the plan is approved;

(g) must be endorsed with a certificate, signed by the Canada Lands Surveyor who made the plan, that is in

(i) Form 1, where the plan submitted is based entirely on a new survey,

(ii) Form 2, where the plan submitted is a descriptive plan, and

(iii) Form 3, where the plan submitted is based only in part on a new survey.

8. (1) Subject to subsection (2), a plan submitted for registration must show the position of

(a) the boundary of any lot or other parcel shown on the most recently filed or registered plan of survey for the land dealt with by the plan submitted for registration that is within the boundaries of, or that is adjacent to or shares a point of intersection with a boundary of, a lot or other parcel created by the plan submitted for registration; and

(b) the boundary of any lot or other parcel

(i) that is shown on an explanatory plan or a descriptive plan

(A) registered against the certificate of title for the land dealt with by the plan submitted for registration,

(B) registered against the certificate of title for the land adjacent to the land dealt with by the plan submitted for registration, and

(C) filed with the Registrar for the land adjacent to the land dealt with by the plan

submitted for registration, where a certificate of title has not been issued for the adjacent land, and

(ii) that is within the boundaries of, or adjacent to or shares a point of intersection with a boundary of a lot or other parcel created by the plan submitted for registration.

(2) Where a boundary of a lot or other parcel shown on a filed or registered plan shares a point of intersection with a boundary of a lot or other parcel created by a plan submitted for registration, the portion of the boundary of the lot or other parcel shown on the filed or registered plan that is not within the lot or parcel created by the plan submitted for registration must only be shown to the extent necessary to indicate its bearing or direction.

Plans of Survey

9. (1) Subject to subsection (2), where all or a portion of a plan of survey submitted for registration is based on a new survey, the monuments shown on the plan of survey must be in place at the time the new survey is completed.

(2) Where, by instructions given under section 17 of the *Canada Lands Surveys Act*, the Surveyor General permits the subdivision of a lot or other parcel in a new survey to be evidenced, in part, by monuments placed within one year of the date of the survey, a Registrar may, before that date, register a plan of survey based on the survey if

(a) the plan identifies those monuments which are not in place at the time the plan is submitted for registration; and

(b) the Registrar is satisfied, by such evidence that the Registrar may require,

(i) that the Canada Lands Surveyor who conducted the survey and made the plan has given an undertaking to the Surveyor General to put the missing monuments in place within a year of the completion of the survey, and

(ii) that adequate measures have been taken to ensure that the monuments will be put in place in the event the undertaking is not honoured.

10. A lot or other parcel created by a plan of survey submitted for registration must be based on a new survey unless the Surveyor General, by instructions given under section 17 of the *Canada Lands Surveys Act*, permits the lot or other parcel to be compiled in

whole or in part from filed or registered plans of survey.

11. (1) Subject to subsection (2) and except where a Registrar permits otherwise, a plan of survey submitted for registration under section 88 of the Act that subdivides or consolidates lots or other parcels created by one or more filed or registered plans of survey must include the whole of the lots or other parcels that it subdivides or consolidates.

(2) A plan of survey referred to in subsection (1) need not include the whole of the lots or other parcels that it subdivides or consolidates if the plan of survey is based entirely on a new survey and is submitted for registration together with another plan of survey that compiles the remainder of the lots or other parcels that are subdivided or consolidated.

12. Where all or a portion of a plan of survey submitted for registration is based on a new survey, the plan of survey must be endorsed with the commencement and completion dates of the new survey.

Descriptive Plans

13. A descriptive plan submitted for registration must contain a complete and unambiguous definition of all boundaries of each lot or other parcel created by the plan, including the information necessary to enable the mathematical correlation of all boundaries shown on the plan.

14. A descriptive plan referred to in section 97 of the Act that is submitted for registration must not contain identification numbers for any lots or other parcels created by the plan.

SCHEDULE

FORM 1

(Subparagraph 7(g)(i))

I, _____, a Canada Lands Surveyor, certify that this plan accurately shows the manner in which I have surveyed the land dealt with in the plan, and that I have prepared this plan in accordance with the provisions of the *Land Titles Act* and the regulations.

Dated at _____ on the ____ day of _____, 19__.

(Canada Lands Surveyor)

FORM 2

(Subparagraph 7(g)(ii))

I, _____, a Canada Lands Surveyor, certify that the lots and parcels shown on this plan are delineated accurately, and that I have prepared this plan in accordance with the provisions of the *Land Titles Act* and the regulations.

Dated at _____ on the ____ day of _____, 19__.

(Canada Lands Surveyor)

FORM 3

(Subparagraph 7(g)(iii))

I, _____, a Canada Lands Surveyor, certify that this plan accurately shows the manner in which I have surveyed any lot or other parcel shown on the plan, that the lots or other parcels shown on this plan which I have not surveyed are delineated accurately, and that I have prepared this plan in accordance with the provisions of the *Land Titles Act* and the regulations.

Dated at _____ on the ____ day of _____, 19__.

(Canada Lands Surveyor)

The *Land Titles Plans Regulations* are made pursuant to section 195 of the *Land Titles Act*. The excerpts that appear above are from Regulation number R-067-93 (19.07.93).

Highway Designation and Classification Regulations

(Public Highways Act)

Excerpts from
R-047-92 (08.05.92)
As amended

1. The highways described in Schedule A are designated as primary highways and classified as arterial highways.
 2. The highways described in Schedule B are designated as primary highways and classified as collector highways.
 3. The highways described in Schedule C are designated as primary highways and classified as local highways.
 4. The designations in Schedules A, B and C describe highways as they exist from time to time.
3. Dettah Road; Width of R.O.W. : 60 m
 4. Fort Liard Access Road; Width of R.O.W. : 60 m
 5. Fort McPherson Access Road; Width of R.O.W. : 60 m
 6. Fort Providence Access Road; Width of R.O.W. : 60 m
 7. Fort Simpson Access Road; Width of R.O.W. : 60 m
 8. Inuvik Access Road; Width of R.O.W. : 60 m
 9. Rae Access Road; Width of R.O.W. : 60 m
 10. Yellowknife Access Road; Width of R.O.W. : 60 m except as shown by plans registered in the Land Titles Office under numbers 65, 480, 650, 619, 304 and 1166.
 11. Aklavik Ice Road; Width of R.O.W. : 60 m
 12. Dettah Ice Road; Width of R.O.W. : 60 m
 13. Fort Franklin Winter Road; Width of R.O.W. : 60 m
 14. Inuvik-Tuktoyaktuk Ice Road; Width of R.O.W. : 60 m
 15. Jean Marie River Winter Road; Width of R.O.W. : 60 m
 16. Lac La Martre Winter Road; Width of R.O.W. : 60 m
 17. Mackenzie Highway (Wrigley-Fort Good Hope) Winter Road; Width of R.O.W. : 60 m
 18. Nahanni Butte Winter Road; Width of R.O.W. : 60 m
 19. Rae Lakes Ice Road; Width of R.O.W. : 60 m
 20. Trout Lake Winter Road; Width of R.O.W. : 60 m

SCHEDULE A

PRIMARY HIGHWAYS - ARTERIAL CLASS

1. Mackenzie Highway No. 1; Width of R.O.W. : 60 m
2. Hay River Highway No. 2; Width of R.O.W. : 60 m
3. Yellowknife Highway No. 3; Width of R.O.W. : 60 m
4. Yellowknife Highway No. 3 Winter Detour Road; Width of R.O.W. : 60 m
5. Fort Smith Highway No. 5; Width of R.O.W. : 60 m
6. Liard Highway No. 7; Width of R.O.W. : 60 m
7. Dempster Highway No.8; Width of R.O.W. : 60 m

SCHEDULE B

PRIMARY HIGHWAYS - COLLECTOR CLASS

1. Ingraham Trail Highway No. 4; Width of R.O.W. : 60 m
2. Fort Resolution Highway No. 6; Width of R.O.W. : 60 m

SCHEDULE C

PRIMARY HIGHWAYS - LOCAL CLASS

1. Canol Road; Width of R.O.W. : 60 m
2. Cassidy Point Road; Width of R.O.W. : 60 m
3. Fort Smith Campground Access Road; Width of R.O.W. : 60 m
4. Fish Camp Road; Width of R.O.W. : 60 m
5. Four Mile House Road; Width of R.O.W. : 60 m
6. Hart Lake Access Road; Width of R.O.W. : 60 m
7. Kakisa Lake Access Road; Width of R.O.W. : 60 m
8. Little Buffalo River Falls Access Road; Width of R.O.W. : 60 m
9. Nagel Channel Road; Width of R.O.W. : 60 m
10. Nanisivik-Arctic Bay Road; Width of R.O.W. : 60 m
11. Nanisivik Airport Road; Width of R.O.W. : 60 m
12. Nanisivik Dock Road; Width of R.O.W. : 60 m
13. Prelude Lake West Access Road; Width of R.O.W. : 60 m
14. Prelude Lake East Access Road; Width of R.O.W. : 60 m
15. Salt River Access Road; Width of R.O.W. : 60 m
16. Sandy Lake Access Road; Width of R.O.W. : 60 m
17. Slave River Winter Road; Width of R.O.W. : 60 m
18. Vee Lake Road; Width of R.O.W. : 60 m

The *Highway Designation and Classification Regulations* are made pursuant to sections 2 and 30 of the *Public Highways Act*. The excerpts that appear above are from Regulation number R-047-92 (08.05.92).

STATUTES OF THE YUKON

Introduction

Contents

This Chapter contains excerpts from the *Republished Statutes of the Yukon, 1986-1990* and from the annual editions of the *Statutes of the Yukon*.

The *Republished Statutes of the Yukon, 1986-1990* is a republication of the English text and the first-time publication of the French text of the *Revised Statutes of the Yukon, 1986*, (including its supplement and the Acts and provisions listed as Not Consolidated, Not Repealed); the *Statutes of the Yukon, 1988*; and the *Statutes of the Yukon, 1989/90*.

The annual editions of the *Statutes of the Yukon* contain Acts of the Legislature of the Yukon Territory which received Royal Assent during a particular year. This Chapter contains excerpts of Acts published in the annual editions of the *Statutes of the Yukon* from 1991 on.

Caution

The excerpts in this Part of the Manual have been prepared for convenience of reference only and have no official sanction. Reference to excerpts is at the user's discretion. The Legal Surveys Division, Department of Natural Resources, assumes no responsibility for any reproduction of the excerpts.

For all purposes of interpreting and applying the law, users should consult the Acts as passed by the Legislature of the Yukon Territory which are published in:

- (a) the *Republished Statutes of the Yukon, 1986-1990*; and

- (b) the annual editions of the *Statutes of the Yukon*.

The above mentioned publications are available in most public libraries. They may also be purchased from the Inquiry Centre, Yukon Government Administration Building, Whitehorse, Yukon, or by writing: Queen's Printer subscriptions, Box 2703, Whitehorse, Yukon Y1A 2C6.

Abbreviations

The following abbreviations are used in this Part of the Manual:

| <u>Abbreviation</u> | <u>Definition</u> |
|------------------------|---|
| c. | chapter |
| CIF | came in force |
| ex. | except |
| NIF | not in force |
| O.I.C. | Order in Council |
| R.S.Y. 1986-1990 | <i>Republished Statutes of the Yukon, 1986-1990</i> |
| RA | Royal Assent |
| s. | section |
| S.Y. | <i>Statutes of the Yukon</i> |
| Sch. | Schedule |
| ss. | sections |

Organization of Acts

The Acts are set out in alphabetical order and are documented similarly to the Acts in Chapter A1. See Chapter A1 (Organization of Acts) for a detailed explanation.

In force dates

The *Republished Statutes of the Yukon, 1986-1990* came into force on 1 January 1994.

Unless specified otherwise, Acts originating from the *Republished Statutes of the Yukon, 1986-1990* came into force on that date. For example, the excerpts of the *Lands Act* are from Chapter 99 of the *Republished Statutes of the Yukon, 1986-1990*. Except for those parts of the Act which may have been amended, the excerpts came into force on 1 January 1994.

A statute comes into force on Royal Assent unless there is a provision in the statute specifying that the statute, or parts thereof, comes into force at a later date. In this Chapter, references to an enactment that came into force after 1 January 1994 contain the date of Royal Assent and, if applicable, coming into force dates.

For example, a reference such as

- (a) ■ S.Y. 1994, c. 5, s. 19; RA 08.06.94.

means that chapter 5 of the *Statutes of the Yukon, 1994* received Royal Assent on 8 June, 1994. Since no CIF date appears in the notation, section 19 of that Act came into force on Assent; and

- (b) ■ S.Y. 1994, c. 19; RA 28.04.94;
CIF 21.04.95 ex. s. 3(2) (O.I.C. 1995/72) ;
s. 3(2) CIF 28.04.94.

means that chapter 19 of the *Statutes of the Yukon, 1994* received Royal Assent on 28 April, 1994. By virtue of Order in Council 1995/72, it came into force on 21 April, 1995 except for subsection 3(2) which came into force on assent.

How current are the excerpts?

This Chapter contains only the enactments which were in force on 1 January 1994 or which came into force after that date. The excerpts have been updated to the applicable date indicated in the Table of Consolidation preceding Part A of this Manual.

Area Development Act

Excerpts from
Chapter 9, R.S.Y. 1986-1990
As amended

Interpretation

1. In this Act,
"development area" means an area designated as such
by the Commissioner in Executive Council.

Designation of development area

2. The Commissioner in Executive Council may
designate as a development area any area in the Yukon
where he considers that it will be necessary in the
public interest to regulate the orderly development of
such areas as contemplated by this Act.

Regulations

3. (1) The Commissioner in Executive Council may
make regulations for the orderly development of a
development area respecting
- (a) the zoning of the area, including the allocation
of land in the area for agricultural, residential,
business, industrial, educational, public or other
purposes;
 - (b) the regulation or prohibition of the erection,
maintenance, alteration, repair or removal of
buildings;
 - (c) streets, roads, lanes, sidewalks, parks, street
lighting and street transit.

The above excerpts of the *Area Development Act* are from chapter 9 of the *Republished Statutes of the Yukon, 1986-1990* as amended by:

- S.Y. 1991, c. 1, s. 13; RA 29.05.91; CIF 09.06.92 (O.I.C. 1992/76).

Condominium Act

Excerpts from
Chapter 28, R.S.Y. 1986-1990
As amended

Interpretation

1. In this Act,

"architect" means a person who is authorized to practise as an architect in any province;

"bare land unit" means a part of the land included in the plan and designated as a unit by horizontal boundaries only without reference to any buildings and, unless otherwise shown on the plan, comprises

(a) all of the space vertically above and below those boundaries, and

(b) all of the material parts of the land within the space referred to in paragraph (a) at the time the declaration and plan are registered;

"board" means the board of directors of a corporation;

"buildings" means the buildings included in a property;

"bylaw" means a bylaw of a corporation;

"claim" includes a right, title, interest, encumbrance or demand of any kind affecting land, but does not include the interest of an owner in his unit and common interest;

"common elements" means all the property except the units;

"common expenses" means the expenses of a performance of the objects and duties of a corporation and any expenses specified as common expenses in a declaration or in section 6;

"common interest" means the interest in the common elements appurtenant to a unit;

"corporation" means a corporation incorporated under this Act;

"declaration" means a declaration to which reference is made in section 5 and includes any amendments thereto;

"encumbrance" means a claim that secures the payment of money or the performance of any other obligation and includes a charge, a mortgage and a lien;

"land" means land, whether leasehold or in fee simple under the provisions of the *Land Titles Act*;

"owner" means the owner of the freehold estate or leasehold estate in a unit and common interest, but does not include a mortgagee unless the mortgagee is in possession;

"plan" means the plan to which reference is made in section 6 and includes any amendments thereto;

"property" means the land and interests appurtenant to the land described in the plan or subsequently added to the common elements;

"registered" means registered under the *Land Titles Act*;

"registrar" means a registrar or deputy registrar appointed under the *Land Titles Act*;

"surveyor" means a Canada land surveyor;

"unit" means a part of the land included in the plan and designated as a unit by the plan, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and plan are registered.

S.Y. 1991, c. 11, s. 195;

S.Y. 1994, c. 5, s. 2.

Meaning of other expressions

2. (1) Words and expressions used in this Act and not defined in section 1 have the meanings assigned to them under the *Land Titles Act*.

(2) For the purposes of this Act, the ownership of, or leasehold interest in, land includes the ownership of, or leasehold interest in, space.

(3) This Act is subject to the *Subdivision Act*.

S.Y. 1991, c. 11, s. 195;

S.Y. 1994, c. 5, s. 2.1.

Objects of the Act

3. The objects of this Act are to facilitate the division of property into parts that are to be owned or leased

individually, and parts that are to be owned or leased in common, to provide for the use and management of such properties, and to expedite dealings therewith; and this Act shall be construed in a manner to give the greatest effect to these objects.

Registration

4. (1) A declaration and plan may be registered or on behalf of the owner in fee simple, or the lessee, of the land described in the plan.

(2) Upon registration of a declaration and plan, the property described in the plan is governed by this Act and the registrar shall

- (a) issue a certificate of title in the name of the corporation as hereinafter provided, which shall set forth that the certificate of title is issued pursuant to the *Condominium Act*,
- (b) issue a separate certificate of title in the name of each owner for each unit described in the plan, which shall set forth the proportion of the common interest appurtenant to the unit and that the certificate of title is issued pursuant to the *Condominium Act*,
- (c) keep an index to be known as the "Condominium Corporations Index",
- (d) keep a register to be known as the "Condominium Register" in which declarations, plans, bylaws, notices of termination and other instruments respecting land governed by this Act shall be registered, and the registration recorded.

Contents of declarations

5. (1) A declaration shall not be registered unless
- (a) title to the land described therein is registered under the *Land Titles Act*,
 - (b) it is executed by the owner or lessee of the property,
 - (c) it has been approved as to form by the registrar,
 - (d) it contains the legal description of the land that is the subject of the declaration,
 - (e) it contains the statement of intention that the land or the leasehold interest therein and interests appurtenant to the land described in the plan be governed by this Act,
 - (f) it contains the consent of all persons having registered encumbrances against the land or interests appurtenant to the land described in the plan,

- (g) it contains a statement expressed in percentages allocated to the units of the proportions in which the owners are to contribute to the common expenses and to share in the common interest, and
- (h) it contains an address for service.

(2) In addition to the matters mentioned in subsection (1), a declaration may contain

- (n) a specification of the majority required for a sale of the property or a part of the common elements,
- (p) any other matters concerning the property, or
- (q) any or all of such matters.

(3) All matters contained in a declaration, except the address for service, may be amended only with the written consent of all owners, and all persons having registered encumbrances against the units and common interests.

(4) Where a declaration is amended, the corporation shall register a copy of the amendment either

- (a) executed by all the owners and all persons having registered encumbrances against the units and common interests, or
- (b) accompanied by a certificate under the seal of the corporation certifying that all the owners and all persons having registered encumbrances against the units and common interests have consented in writing to the amendment,

and until the copy is registered, the amendment is ineffective.

S.Y. 1991, c. 11, s. 195.

Contents of plans

6. (1) A plan shall delineate the perimeter of the horizontal surface of the land and the perimeter of the buildings in relation thereto, and shall contain

- (a) structural plans of the buildings,
- (b) a specification of the boundaries of each unit by reference to the buildings,
- (c) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings,
- (d) a certificate of a surveyor certifying that he was present at and personally superintended the survey represented by the plan, and that the survey and plan are correct,

(e) a certificate of an architect certifying that the buildings have been constructed, and that the diagrams of the units are substantially accurate and substantially in accordance with the structural plans, and

(f) a description of any interest appurtenant to the land that is included in the property.

(1.1) The requirement in subsection (1) that a plan shall delineate the perimeter of the buildings in relation to the perimeter of the surface of the land and paragraphs (1)(a), (b) and (e) do not apply to a plan of a bare land unit.

(1.2) The horizontal boundaries of a bare land unit shall be established by monuments.

(2) A plan and any amending plan shall not be registered unless it has been approved by the Surveyor General of Canada or the Surveyor General's designate.

(3) The plan may be amended only with the written consent of all owners and all persons having registered encumbrances against the units and common interests.

(4) Where a plan is amended, the corporation shall register a copy of the amended plan either

(a) executed by all the owners and all persons having registered encumbrances against the units and common interests, or

(b) accompanied by a certificate under the seal of the corporation certifying that all the owners and all persons having registered encumbrances against the units and common interests have consented in writing to the amendments,

and until the copy is registered, the amendment is ineffective.

S.Y. 1992, c. 19;

S.Y. 1994, c. 5, s. 3.

Nature of units and common interests

7. (1) Units and common interests are real property for all purposes, and the unit and common interest appurtenant thereto provided therein may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as any land the title to which is registered under the *Land Titles Act*.

(2) Subject to this Act, the declaration and the bylaws, each owner is entitled to exclusive ownership and use of his unit.

(3) No condition shall be permitted to exist, and no activity shall be carried on, in any unit or the common elements that are likely to damage the property.

(4) The corporation, or any person authorized by the corporation, may enter any unit at any reasonable time to perform the objects and duties of the corporation.

S.Y. 1991, c. 11, s. 195.

Ownership, encumbrances and taxation

8. (1) The owners are tenants in common of the common elements.

(2) An individual interest in the common elements is appurtenant to each unit.

(3) Subject to this Act, the declaration and the bylaws, each owner may make reasonable use of the common elements.

(4) Except as provided by this Act, no share in the common elements shall be dealt with except with the unit of the owner, and any instrument dealing with a unit shall operate to deal with the share of the owner in the common elements without express reference thereto.

(5) Except as provided in this Act, the common elements shall not be partitioned or divided.

(6) No encumbrance is enforceable against the common elements after the declaration and plan are registered.

(7) An encumbrance which except for subsection (6) would be enforceable against common elements, is enforceable against all the units and common interests.

Easements appurtenant to units

9. (1) The following easements are created and are appurtenant to each unit:

- (a) where a building or any part of a building
 - (i) moves after registration of the declaration plan, or
 - (ii) after having been damaged and repaired, is not restored to the position occupied at the time of registration of the declaration and plan,

an easement for exclusive use and occupation in accordance with this Act, the declaration and the bylaws over the space of the other units and common elements that would be space included in the unit, if the boundaries of the unit were determined by the position of the buildings from time to time after registration of the plan and not at the time of registration;

(b) an easement for the provision of any service through any installation in the common elements or any other unit;

(c) an easement for support and shelter by the common elements and any other unit capable of providing support or shelter.

(2) The following easements are created and are appurtenant to the common elements:

(a) an easement for the provision of any service through any installation in any unit;

(b) an easement for support and shelter by any unit capable of providing support and shelter.

(2.1) Notwithstanding subsections (1) and (2)

(a) paragraph (1)(a) does not apply to a bare land unit;

(b) paragraphs (1)(b) and (2)(a) do not apply to a bare land unit unless the installation was in existence at the time the owner of the bare land unit became the owner of the unit; and

(c) the easements for shelter provided in paragraphs (1)(c) and (2)(b) do not apply to a bare land unit.

(3) All ancillary rights and obligations reasonably necessary to make easements effective shall apply in respect of easements implied or created by this Act.

S.Y. 1994, c. 5, s. 5.

Condominium corporations

10. (1) Upon registration of a declaration and plan, there is created a corporation without share capital having a name comprised of the following components:

(a) the place or district;

(b) the words "Condominium Corporation";

(c) the abbreviation "No." together with a number which shall be the next available consecutive number in the Condominium Corporations Index.

(2) The members of the corporation are the owners and they shall share the assets of the corporation in the proportions as provided in the declaration.

(4) The objects of the corporation are to manage the property of the owners and any assets of the corporation.

(5) The corporation is responsible for the control, management and administration of the common elements.

Notice of termination due to substantial damage

20. (1) Where on a vote the owners do not vote for repair, the corporation shall within ten days of the vote register a notice of termination with the registrar.

(2) Where there has been no vote within 60 days of the determination that there has been substantial damage under subsection 19(1), the corporation shall within ten days after the expiry of the 60 day period, register a notice of termination.

(3) Upon the registration of a notice of termination under subsection (1) or (2),

(a) the government of the property by this Act is terminated,

(b) the owners are tenants in common or lessees, as the case may be, of the land and interests appurtenant to the land described in the plan in the same proportions as their common interests,

(c) claims against the land and the interests appurtenant to the land described in the plan created before the registration of the declaration and plan are as effective as if the declaration and plan had not been registered,

(d) encumbrances against each unit and common interest created after the registration of the declaration and plan are claims against the interest of the owner in the land and interests appurtenant to the land described in the plan, and have the same priority they had before the registration of the notice of termination, and

(e) all claims against the property created after the registration of the declaration and plan, other than the encumbrances mentioned in paragraph (d), are extinguished.

Sale of property or common elements

21. (1) Sale of the property or any part of the common elements may be authorized

(a) by a vote of owners who own 66 2/3 percent, or such greater percentage as is specified in the declaration, of the common elements, and

(b) by the consent of the persons having registered claims against the property or the parts of the common elements as the case may be, created after the registration of the declaration plan.

(2) Where a sale of the property or any part of the common elements is authorized under subsection (1), the corporation shall

(a) register a notice of termination which shall describe the property or the part of the common elements being sold and shall affect only such property, and

(b) transfer the property or the part of the common elements being sold.

(3) The notices of the termination and transfer shall

(a) be executed by all the owners and all the persons having registered claims against the property or the part of the common elements being sold, or

(b) be executed by the corporation and be accompanied by a certificate under the seal of the corporation certifying that the required percentage of owners as stipulated in this Act or the declaration have voted in favour of the sale, and that all persons having registered claims against the property or the part of the common elements being sold have consented in writing to the sale.

(4) A certificate made under paragraph (3)(b) is conclusive proof of the facts stated therein

(a) in favour of a purchaser of the parcel, and

(b) in favour of the registrar.

(5) Upon registration of the transfer, the registrar shall

(a) endorse upon the certificate of title in the name of the corporation a memorial that the property or a part of the common elements, as the case may be, is no longer governed by this Act,

(b) in the case of a transfer of all the property, cancel the certificates of title of each unit and where necessary dispense with the production of the duplicate certificate of title without complying with the provisions of section 159 of the *Land Titles Act*, and

(c) in the case of a transfer of part of the common elements, cancel the certificate of title for that part of the common elements being transferred.

(6) Upon registration of the transfer,

(a) registered claims against the land and interests appurtenant to the land created before the registration of the declaration and plan are as effective in respect of the property transferred, and the registrar shall issue the certificates of title in respect of the property transferred clear of such registered claims, and

(b) registered claims against the property or the part of the common element created after the registration of the declaration and plan are extinguished in respect of the property transferred clear of such registered claims.

S.Y. 1991, c. 11, s. 195.

Termination by notice without sale

22. (1) Termination of the government of the property under this Act may be authorized

(a) by a vote of the owners who own 66 2/3 percent, or such greater percentage as is specified in the declaration, of the common elements, and

(b) by the consent of the persons having registered claims against the property created after the registration of the declaration and plan.

(2) Where termination of the government of the property under this Act is authorized under subsection (1), the corporation shall register a notice of termination which shall either

(a) be executed by all the owners and all the persons having registered claims against the property created after the registration of the declaration and plan, or

(b) be executed by the corporation and accompanied by a certificate under the seal of the corporation certifying that the required percentage of owners as stipulated in this Act or the declaration and all the persons having registered claims against the property created after the registration of the declaration and plan have voted in favour of the termination of the government of the property.

(3) Upon registration of a notice of termination under subsection (2), the provisions of subsection 20(3), shall apply.

Regulations

25. For the purpose of carrying out the provisions of this Act, the Commissioner in Executive Council may make regulations,

- (a) prescribing forms for use under this Act;
 - (b) prescribing rules to cover cases for which no provision is made under this Act.
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The above excerpts of the *Condominium Act* are from chapter 28 of the *Republished Statutes of the Yukon, 1986-1990* as amended by:

- S.Y. 1991, c. 11, s. 195; RA 29.05.91; CIF 19.07.93 (O.I.C. 1993/85).
- S.Y. 1992, c. 19; RA 17.12.92.
- S.Y. 1994, c. 5; RA 08.06.94.

Environment Act

Excerpts from
Chapter 5, S.Y. 1991
As amended

Citation

1. This Act may be cited as the *Environment Act*.

Definitions

2. In this Act

"conservation easement" means a conservation easement as defined in Part 5;

"land" includes the surface, topsoil and over-burden of land and wetland;

"land claims agreement" means a land claims agreement that has been ratified by the Government of the Yukon and implemented by an Act of the Legislature or of Parliament the purpose of which is to implement the land claims agreement, whichever is in force;

"self-government agreement" means an agreement for the self-government of a Yukon First Nation that has been ratified by the Government of the Yukon and implemented by an Act of the Legislature or of Parliament the purpose of which is to implement that agreement, whichever is in force;

"settlement land" means land defined as settlement land in a land claims agreement;

"water" means surface and ground water and includes ice and snow;

"Yukon First Nation" means a Yukon First Nation as defined in the Comprehensive Land Claim Umbrella Final Agreement between the Government of Canada, the Council for Yukon Indians and the Government of the Yukon, dated March 31, 1990, and amendments thereto;

Application

3. (1) Subject to the *Yukon Act* (Canada), this Act applies throughout the Yukon.

(2) Notwithstanding anything in this Act, where there is a conflict between this Act and

(a) a land claims agreement; or

(b) a self-government agreement,
the land claims agreement or the self-government agreement shall prevail to the extent of the conflict.

The Government of the Yukon is bound

4. This Act binds the Government of the Yukon.

PART 5

INTEGRATED RESOURCE PLANNING AND MANAGEMENT

Definitions

64. In this Part,

"land use plan" means a resource management plan relating to land use;

"natural resource" means land, water, forest, wilderness, wildlife and other natural resources over which the Government of the Yukon has authority, ownership or control;

Purpose

65. The purpose of this Part is to provide a comprehensive basis for integrated land use and natural resource planning and management in the Yukon.

Land use planning

69. Subject to a land claims agreement, the Commissioner in Executive Council may establish, amend or revoke regional, subregional or other land use plans in consultation with Yukon First Nations, the Government of Canada municipalities and the public.

Interpretation of conservation agreements

76. In sections 77 to 80,

"conservation easement" means an interest in real property which imposes restrictions or positive obligations for

- (a) retaining or protecting natural, scenic, or open-space values;
- (b) assuring natural resources are available for recreational or open-space uses;
- (c) conserving or enhancing natural resources, the land in its natural state, wildlife habitat, plant habitat, or migratory routes of birds and animals; or
- (d) conserving or enhancing soil, air or water quality.

"holder" means

- (a) a governmental body empowered to hold an interest in real property under the laws of the Government of the Yukon or the Parliament of Canada; or
- (b) a charitable corporation, charitable association, or charitable trust, the purposes or powers of which include any of the purposes listed in the definition of "conservation easement".

Creation, transfer and duration of conservation easements

77. (1) An owner in fee simple of real property may grant a conservation easement to a holder in the same manner as any other interest in land.

(2) No right or duty arises under a conservation easement until the instrument creating the conservation easement is registered pursuant to the *Land Titles Act*.

(3) A conservation easement runs with the land.

(4) An interest in real property, other than the fee simple interest which is in existence at the time a conservation easement is created, is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

(5) A holder may transfer its interest to another holder.

PART 12**REGULATIONS***Regulations concerning Parts 1, 2, 4, 5 and 15*

140. The Commissioner in Executive Council may make regulations relating to Parts 1, 2, 4, 5 and 15 respecting any matter which the Commissioner in Executive Council considers necessary to carry the purposes and provisions of Parts 1, 2, 4, 5 and 15 into effect.

Coming into Force
Environment Act

Chapter 5, S.Y. 1991; RA 29.05.91; ss. 1 to 13, 19 to 93 and 140 CIF 30.09.92 (O.I.C. 1992/134).

The above excerpts of the *Environment Act* are from chapter 5 of the *Statutes of the Yukon, 1991*.

Evidence Act

Excerpts from
Chapter 57, R.S.Y. 1986
As amended

Interpretation

1. In this Act,

"action" includes any civil proceeding, inquiry or arbitration, a prosecution for an offence committed against an Act of the Legislature or against a bylaw or regulation made under the authority of any such Act, and any other prosecution or proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the laws of the Yukon;

"court" includes an arbitrator, umpire, commissioner, judge of the Territorial Court, judge of the Supreme Court, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence;

"document" includes book, map, plan, drawing or photograph;

"statement" includes any representation of fact, whether made in words or otherwise;

"statutory declaration" or "solemn declaration" means a solemn declaration in the form and manner provided in the *Canada Evidence Act*.

WITNESSES AND PRIVILEGES

Not incompetent from interest and crime

2. A person is not incompetent to give evidence by reason of crime or interest.

Incriminating questions

7. (1) In this section, "witness" includes a person who in the course of an action is examined viva voce on discovery, who is cross-examined upon an affidavit made by him, or who answers any interrogatories or makes an affidavit as to documents.

(2) A witness shall not be excused from answering a question or producing a document upon the ground that the answer to the question or the

production of the document may tend to criminate him, or may tend to establish his liability to an action at the instance of the Crown or of any person.

Attendance of witness

8. No person is obliged to attend or give evidence in an action unless he is tendered his proper witness fees and necessary travelling expenses.

Expert evidence

9. Where it is intended by any party to an action to examine as witnesses professional or other experts entitled according to law or practice to give opinion evidence, not more than three such witnesses may be called by either side to give opinion evidence on any issue in the action without the leave of the court.

OATHS AND AFFIRMATIONS

Administration of oaths and affirmations

17. (1) Every court has power to administer or cause to be administered an oath or affirmation to every witness who is called to give evidence before the court.

(2) Where an oath, affirmation or declaration is directed to be made before a person he has full power and authority to administer it and to certify to its having been made.

Validity of oath

21. Where an oath has been administered and taken, the fact that the person to whom it was administered and by whom it was taken did not at the time of taking

the oath believe in the binding effect of the oath does not, for any purpose, affect the validity of the oath.

PROOF OF STATUTES, DOCUMENTS AND RECORDS

Proof of business records

37. (1) In this section, "business" includes every kind of business, profession, occupation or calling whether carried on for profit or not.

(2) A record in any business of an act, condition or event is, insofar as relevant, admissible in evidence if the custodian of the record or other qualified person testifies to its identity and the mode of its preparation, and to its having been made in the usual and ordinary course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the source of information, method and time of preparation were such as to justify its admission.

Proof by means of photographic prints

38. (1) In this section, "person" includes

- (a) the government of Canada or of any other province and any department, commission, board or branch of any such government,
- (b) a corporation, and
- (c) the heirs, executors, administrators or other legal representatives of a person;

"photographic film" includes any photographic plate, microphotographic film and photostatic negative.

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry therein kept or held by any person

- (a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof, and
- (b) is destroyed by or in the presence of the person or of one or more of his employees or delivered to another person in the ordinary course of business or lost,

a print from the photographic film is admissible in evidence in all cases for all purposes for which the object photographed would even be admissible.

(3) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement or other executed or signed document was so destroyed before the expiration of six years from

- (a) the date when in the ordinary course of business either the object or the matter to which it related ceased to be treated as current by the person having custody or control of the object, or
- (b) the date of receipt of the person having custody or control of the object of notice in writing of any claim in respect of the object or matter prior to the destruction of the object,

whichever is the later date, the court may refuse to admit in evidence under this section a print from a photographic film of the object.

(5) Proof of compliance with the conditions prescribed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public or a commissioner for oaths, and unless the court otherwise orders a notarial copy of any such affidavit is admissible in evidence in lieu of the original affidavit.

Proof of registered documents

45. (1) In an action where it would be necessary to produce and prove an original document that has been deposited, filed, kept or registered in any land titles office, a court registry, or any public office or court in the Yukon, in order to establish the document and the contents thereof, the party intending to prove the original document may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence as proof of the original document a copy thereof certified by the registrar of the office where the same is so deposited, filed, kept or registered, under his hand and seal of office.

(2) A copy certified pursuant to this section is sufficient evidence of the original document and of its validity and contents without proof that the document was so deposited, filed, kept or registered, unless the party receiving the notice, within four days after its receipt, gives notice that he disputes the validity or contents of the original document.

(3) The cost attending any production or proof of the original document is in the discretion of the court.

Proof of documents under other laws

52. The provisions of this Act shall be deemed to be in addition to and not in derogation of any power of proving documents given by any other law.

AFFIDAVITS AND DECLARATIONS

Within the Yukon

57. An oath, affidavit, affirmation or statutory declaration for use in the Yukon may be administered, sworn, affirmed or made within the Yukon before

- (a) a judge of the Supreme Court, a judge of the Territorial Court or a justice of the peace,
- (b) the clerk and deputy clerk of the Supreme Court,
- (c) a commissioner for taking oaths within the Yukon,
- (d) a notary public appointed for the Yukon,
- (e) a lawyer,
- (f) a postmaster of any post office appointed under the *Post Office Act* (Canada),
- (g) the sheriff or deputy sheriff, or
- (h) a member of the Royal Canadian Mounted Police,

and every such officer shall designate his office below his signature to the jurat on the affidavit, affirmation or statutory declaration administered, sworn, affirmed or made before him.

Authority of commissioned officers

58. (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made within or outside the Yukon before a person who holds a commission as an officer in the Canadian Armed Forces and is on full-time service is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Yukon before a commissioner for taking affidavits within the Yukon.

(2) A document that purports to be signed by a person mentioned in subsection (1) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him and on which his rank and unit are shown below his signature is admissible in evidence without proof of his signature, of his rank or unit or that he is on full-time service.

Outside the Yukon

59. (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside the Yukon before

- (a) a judge,
- (b) a magistrate,
- (c) an officer of a court of justice,
- (d) a commissioner for taking affidavits or other competent authority of the like nature,
- (e) a notary public,
- (f) the head of a city, town, village, township or other municipality,
- (g) an officer of any of Her Majesty's diplomatic or consular services, including an ambassador, envoy, minister, chargé d'affaires, counsellor, secretary, attaché, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent,
- (h) an officer of the Canadian diplomatic, consular or representative services, including, in addition to the diplomatic and consular officers mentioned in paragraph (g) a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary, or
- (i) a Canadian Government Trade Commissioner or an Assistant Canadian Government Trade Commissioner,

exercising his functions or having jurisdiction or authority as such in the place in which it is administered, sworn, affirmed or made, is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Yukon before a commissioner for taking affidavits within the Yukon.

(2) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside the Yukon before a notary public appointed for the Yukon or before a commissioner for taking affidavits within the Yukon is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Yukon before a commissioner for taking affidavits within the Yukon.

(3) A document that purports to be signed by a person mentioned in subsection (1) or (2) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him and on which his office is shown below his signature, and

(a) in the case of a notary public, that purports to have impressed thereon or attached thereto his official seal,

(b) in the case of a person mentioned in paragraph (1)(f), that purports to have impressed thereon or attached thereto the seal of the municipality, or

(c) in the case of a person mentioned in paragraph (1)(g), (h) or (i), that purports to have impressed thereon or attached thereto his seal or the seal or stamp of his office or of the office to which he is attached,

is admissible in evidence without proof of his signature, of his office or official character, or of the seal or stamp, and without proof that he was exercising his functions or had jurisdiction or authority

in the place in which the oath, affidavit, affirmation or statutory declaration was administered, sworn, affirmed or made.

Authority for the purposes of other laws

61. Where under any law evidence under oath is authorized or required to be taken, or an oath is authorized or directed to be made, taken or administered, the oath may be administered and a certificate of its having been made, taken or administered may be given by anyone authorized by such law to take the evidence or by anyone authorized to take affidavits under this Act having authority or jurisdiction within the place where the oath is administered.

The above excerpts of the *Evidence Act* are from chapter 57 of the *Republished Statutes of the Yukon, 1986-1990*, as amended by :

- S.Y. 1994, c. 2, s. 5; RA 27.01.94.

Expropriation Act

Excerpts from
Chapter 60, R.S.Y. 1986
As amended

Interpretation

1. In this Act,

"expropriating authority" means any person empowered to acquire land by expropriation;

"expropriation" means the taking of land without consent of the owner by an expropriating authority in the exercise of its statutory powers;

"land" includes any estate, term, easement, right or interest in, to, over or affecting land;

"owner" includes a mortgagee, lessee, tenant, occupant, execution creditor, a person entitled to a limited estate or interest in land, the public administrator or the trustees of the estate of an insane person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;

"registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper registry, Land Titles or Sheriff's Office, and includes a person shown as a tenant of land on the last revised assessment roll;

"serve" means to serve personally or by registered letter addressed to the person to be served at his last known address, or, if that person is unknown, or if his address is unknown, by publication once a week for four weeks in a newspaper having general circulation in the locality in which the land concerned is situated.

Executive Council Member may expropriate

2. (1) Subject to this Act, the Executive Council Member may, without the consent of the owner, enter upon and expropriate any land that he deems necessary for the public purposes of the Yukon or at the request of any municipality for the public purposes of any municipality.

(2) Compensation for disturbance, injurious affection of land or expropriation of land shall be assessed and paid in the manner provided in this Act.

Application of the Act

3. (1) Where land is expropriated or is injuriously affected by an expropriating authority in the exercise of its statutory powers, this Act applies.

(2) Where there is conflict between a provision of this Act and a provision of any other Act, this Act prevails.

Crown bound

4. This Act binds the Crown.

Vesting of title

5. (1) Where an expropriating authority has exercised its statutory powers to expropriate land, it shall register without undue delay in the land titles office a plan of the land signed by the expropriating authority and by a Canada Land Surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority.

(2) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority.

(3) In the case of an omission, misstatement, or erroneous description in a plan registered under this section, the expropriating authority may register in the land titles office a plan replacing or amending the original plan and signed by the expropriating authority and by a Canada Land Surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the

original plan to the extent that such plan is replaced or amended thereby.

(4) Where a plan purports to have been signed by an expropriating authority under this section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the tribunal determining compensation under this Act.

(5) Where a limited estate, right or interest in land is being taken for an electrical transmission or distribution line carried on single poles, the expropriating authority may, before registering a plan under subsection (1), register in the land titles office, a preliminary plan, to be known as and marked "Preliminary Plan" and being a plan with or without local description, signed by the expropriating authority and illustrating the location of the proposed line and indicating by appropriate words thereon the nature of the estate, right or interest being taken, and such preliminary plan when registered has the same force and effect as a plan registered under subsection (1), but a plan in accordance with subsection (1) shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan.

Notice of expropriation

6. (1) Where a plan has been registered under section 5, and no agreement as to compensation has been made with the owner, the expropriating authority may serve the owner, and shall serve the registered owner, within 60 days after the date of registration of the plan, with a notice of expropriation of his land in the prescribed form, but failure to serve the notice does not invalidate the expropriation.

Possession of expropriated land

22. (1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with a notice that it requires possession of the land on the date specified therein, the expropriating authority, if no application is made under subsection (3), is entitled to enter upon and take possession of the land on the date specified in the notice.

(2) The date of possession shall be at least ten days after of the serving of the notice of possession.

Abandonment of expropriated land

24. (1) Where, at any time before the date specified in the notice of possession served under section 22, the land or any part thereof is found to be unnecessary for the purposes of the expropriating authority or if it is found that a more limited estate or interest therein only is required, the expropriating authority may, by an instrument signed by it and registered in the land titles office and served on the owner who was served with notice of expropriation, declare that the land or such part thereof is not required and is abandoned by the expropriating authority or that it is intended to retain only such limited estate or interest as is mentioned in the instrument, and thereupon

(a) the land declared to be abandoned reverts in the owner from whom it was expropriated and those entitled to claim under him, or

(b) in the event of a limited estate or interest only being retained by the expropriating authority, the land so reverts subject to such limited estate or interest.

Regulations

25. The Commissioner in Executive Council may make regulations respecting any matter he deems necessary or advisable to carry out effectively the intent and purpose of this Act.

The above excerpts of the *Expropriation Act* are from chapter 60 of the *Republished Statutes of the Yukon, 1986-1990*.

Highways Act

Excerpts from
Chapter 7, S.Y. 1991
As amended

PART 1

INTERPRETATION

Definitions

1. In this Act,
"highway" includes

- (a) land used as a highway, land surveyed for use as a highway, and land designated by the Commissioner in Executive Council as a road allowance,
- (b) a bridge or other public improvement incidental to a highway, and
- (c) an ice road;

"land claims agreement" means the Umbrella Final Agreement or a land claims agreement that has been ratified by the Government of the Yukon and implemented by an Act of the Legislature or of Parliament the purpose of which is to implement that land claims agreement, whichever is then in force;

"Minister" has the same meaning as "Executive Council Member" as defined in the *Interpretation Act*;

"municipality" means a municipality as defined in the *Municipal Act*;

"officer" means any member of the public service employed in the administration of this Act and includes any member of the Royal Canadian Mounted Police;

"public improvement" includes earth embankments, grade construction, earth or gravel pits, structures, ditches, drains, survey markers, dams, reservoirs, or other works required in connection with highway construction or maintenance;

"restricted use highway" means a highway prescribed for use for one or more restricted purposes;

"self-government agreement" means an agreement for the self-government of a Yukon First Nation that has been ratified by the Government of the Yukon and implemented by an Act of the Legislature or of Parliament the purpose of which is to implement that agreement;

"Umbrella Final Agreement" means the Umbrella Final Agreement between the Council for Yukon Indians, the Government of the Yukon, and the Government of Canada dated March 31, 1990;

PART 2

ADMINISTRATION

Delegation of authority

3. The Minister may delegate the power or authority vested in him or her under this Act to any officer subject to conditions considered appropriate by the Minister.

Highways under Minister

4. All highways and all property acquired for highway purposes are subject to the jurisdiction, management and control of the Minister.

Transfer of highway to municipality

5. (1) The Commissioner in Executive Council shall transfer the jurisdiction over any highway or part thereof within the limits of a municipality, other than a highway or part thereof excepted by order, to that municipality subject to any conditions that the Commissioner in Executive Council considers appropriate.

(2) When a highway or part of a highway is transferred to a municipality pursuant to subsection (1),

- (a) it vests in and is under the management and control of the municipality on and after the day set by the Commissioner in Executive Council,
- (b) it is for all purposes subject to the jurisdiction of the municipality under the *Municipal Act*,

(c) any agreements made or permits granted by the Minister, the Government of the Yukon, or the Government of Canada in relation thereto shall continue in force as though made or granted by the municipality, and

(d) all rights, privileges and benefits conferred upon or retained by the Minister or the Government of the Yukon in any agreement referred to in paragraph (c) shall enure to the benefit of and be binding upon the municipality.

PART 3

CONSTRUCTION AND MAINTENANCE

Establishing and altering highways

7. (1) The Minister may
- (a) make highways,
 - (b) vary and alter existing highways,
 - (c) maintain highways or public improvements, and
 - (d) declare a highway by notice in the Yukon Gazette setting forth its direction and extent.

(2) No person shall survey, construct or maintain a highway or public improvement except as authorized by permit from the Minister.

(3) The Commissioner in Executive Council may by order name a highway or change the name of a highway.

Removing fences and constructing ditches

8. (1) Where the Minister considers it necessary in the course of constructing or maintaining a highway to remove a wall or fence on land adjoining the highway or to construct a ditch or drain on land adjoining the highway, the Minister may enter onto the adjoining land and remove the wall or fence or construct the ditch or drain.

(3) No person shall obstruct or damage a ditch or drain constructed under subsection (1).

(4) No person shall obstruct or interfere with another person entering onto land for the purpose of subsection (1)

Closure of highways

13. The Commissioner in Executive Council may by order close a highway or part thereof

PART 4

PROTECTION OF HIGHWAYS

Designation of Highways

23. The Commissioner in Executive Council may designate a highway or part thereof as a primary secondary, rural, or restricted use highway.

Other prohibitions

32. No person shall
- (a) occupy all or part of the road allowance of a highway except as authorized by permit from the Minister,
 - (f) carry out any work within a road allowance except as authorized by permit from the Minister, or

PART 5

ACCESS CONTROL

Controlled highways

33. For the purpose of this part, a controlled highway is a primary highway, a restricted use highway, or a highway prescribed by regulation to which access is controlled.

Abrogation of common law rights

34. (1) A person
- (a) is not as of right entitled to any direct access to or from a controlled highway from or to any land adjacent thereto, and
 - (b) does not have any right of easement, light, air, or view to, from, or over a controlled highway.

Control of access

35. (1) The Commissioner in Executive Council may at any time close

- (a) any highway providing access to or from a controlled highway, or
- (b) any means of access between a controlled highway and land adjacent to a controlled highway.

PART 6

LAND ACQUISITION AND DISPOSAL

Acquisition of property for highways

37. The Minister may acquire property for highways, highway maintenance, or highway construction, and may hold, manage and develop the property.

Power to dispose of public property

38. Any property taken for a highway or public improvement may be sold, leased or otherwise disposed of and the proceeds of such disposition shall be deposited in the Yukon Consolidated Revenue Fund.

Disposal of land when highway closed

39. (1) Notwithstanding the *Lands Act*, the Commissioner in Executive Council may dispose of lands which were a highway or part thereof closed under section 13

- (a) by sale, lease, or other disposition to the owner of the land of which the closed highway originally formed part, if any, or to the owner of the land adjoining the closed highway, or
- (b) by sale, lease, or other disposition to the Government of Canada or to the municipality within whose boundaries the closed highway is located.

- (2) Where the land is not disposed of under subsection (1), the *Lands Act* governs the disposition of the lands.

PART 7

GENERAL

Land claims agreement or self-government agreement prevails

40. In the event of conflict in operation between a provision of this Act and a provision of a land claims agreement or self-government agreement then, to the extent of the conflict, the provision of the land claims agreement or self-government agreement prevails and the provision of this Act is inoperative.

Regulations

44. (1) The Commissioner in Executive Council may make regulations

- (b) designating any highway or part thereof as a primary, secondary, rural, or restricted use highway;
- (f) respecting the design, location, and construction of any means of access to or from a controlled highway;
- (g) respecting the location of any means of access to or from any highway;
- (k) prescribing a road allowance for any highway or class of highways;
- (o) generally for carrying out the purposes and provisions of this Act.

(2) The Commissioner in Executive Council may make a regulation apply to part of the Territory only.

Coming into Force

Highways Act
Chapter 7, S.Y. 1991; RA 29.05.91

CIF 22.07.91 (O.I.C. 1991/140)

The above excerpts of the *Highways Act* are from chapter 7 of the *Statutes of the Yukon, 1991*.

Land Titles Act

Excerpts from
Chapter 11, S.Y. 1991
As amended

INTERPRETATION

Definitions

1. In this Act,

"affidavit" includes a solemn affirmation when made by a person entitled to affirm;

"assurance fund" means the fund established under section 155;

"certificate of title" means the certificate in Form 2 granted by the registrar and entered and kept in the register;

"court" means any court authorized to adjudicate in the Yukon Territory in civil matters in which the title to real estate is in question;

"duplicate" or "duplicate certificate" means the duplicate, delivered or issued to the person entitled thereto, of the certificate of title in the register;

"encumbrance" means any charge on land, created or effected for any purpose whatever, including mortgages, mechanics' liens when authorized by statute or ordinance, and executions against lands, unless expressly distinguished;

"encumbrancee" means the owner of an encumbrance;

"encumbrancer" means the owner of any land or of any estate or interest in land subject to any encumbrance;

"endorsed" and "endorsement" apply to anything written on any instrument or on any paper attached thereto by the registrar;

"federal Minister" means the Minister of Indian Affairs and Northern Development of Her Majesty in Right of Canada;

"filing" means the entering in the daybook of any instrument;

"Form" means a Form in the schedule;

"grant" means any grant of Crown land, whether by letters patent under the Great Seal, a notification or any other instrument whether in fee or for years, and whether direct from Her Majesty or by or pursuant to any statute;

"instrument" means any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate or exemplification of probate of will, letters of administration or an exemplification thereof, mortgage or encumbrance, or any other document in writing relating to or affecting the transfer of or other dealing with land or evidencing title thereto;

"judge" means an official authorized to adjudicate in the Yukon Territory in civil matters in which the title to real estate is in question;

"land" means lands, messuages, tenements and hereditaments, corporeal and incorporeal, of every nature and description, and every estate or interest therein, whether the estate or interest is legal or equitable, together with all paths, passages, ways, watercourses, liberties, privileges, easements, mines, minerals and quarries appertaining thereto, and all trees and timber thereon and thereunder lying or being, unless specially excepted;

"memorandum" means the endorsement on the certificate of title and on the duplicate copy thereof of the particulars of any instrument presented for registration;

"mortgage" means any charge on land created merely for securing a debt or loan;

"mortgagee" means the owner of a mortgage;

"mortgagor" means the owner or transferee of land or of any estate or interest in land pledged as security for a debt or loan;

"notification" means a direction in a form prescribed by the Governor in Council pursuant to the *Territorial Lands Act* (Canada) and issued pursuant to that Act;

"owner" means any person or body corporate entitled to any freehold or other estate or interest in land, at law or in equity, in possession, in futurity or in expectancy;

"possession", when applied to persons claiming title to land, includes the reception of the rents and profits thereof;

"register" means the register of titles to land kept in accordance with this Act;

"registrar" means a registrar of titles or any deputy registrar or inspector of titles when acting as registrar;

"registration" means

(a) the bringing of lands under the provisions of this Act, and

(b) the entering on the certificate of title of a memorandum authorized by this Act, of any documents;

"territorial Minister" means the Executive Council Member responsible for the Department of Justice of the Government of the Yukon;

"Territory" means the Yukon Territory;

"transfer" means the passing of any interest or estate in land under this Act, whether for valuable consideration or otherwise;

"transferee" means the person to whom any interest or estate in land is transferred, whether for valuable consideration or otherwise;

"transferor" means the person by whom any interest or estate in land is transferred, whether for valuable consideration or otherwise;

"transmission" applies to change of ownership consequent on death, lunacy, sale under execution, order of court or other act of law, or on a sale for arrears of taxes or on any settlement or any legal succession in case of intestacy.

REGISTRATION DISTRICTS

Provision for further registration districts

7. The Commissioner in Executive Council may, from time to time, by proclamation, as the settlement of the country and the exigencies of the public service require, constitute any portion of the Territory a land registration district, and declare by what local name it shall be known and designated, and may from time to time change the boundaries of existing districts.

Location of land titles offices

9. For each registration district there shall be an office, to be called "The Land Titles Office", which shall be in the district at a convenient and suitable place to be determined by the Commissioner in Executive Council.

OFFICERS

Registrars and their assistants

14. The business of each land titles office shall be conducted by an officer called the registrar, appointed by the Commissioner in Executive Council, with such assistants and clerks as are necessary and as the Commissioner in Executive Council from time to time appoints.

Deputy registrars

16. Whenever the occasion requires, the Commissioner in Executive Council may, from time to time, appoint deputy registrars to assist the registrar under instructions from the registrar.

Administration of oaths

25. The inspector, or within a registration district any registrar or deputy registrar, may administer any oath or take any solemn affirmation or declaration respecting titles to land.

Copies of abstracts of instruments

26. Every registrar shall, when required, furnish, under seal, an exemplification, copy or abstract of any instrument affecting lands deposited, filed or registered in the office of the registrar, and every such exemplification and every duly certified copy shall be admitted as evidence in the same manner and with the same effect as if the original were produced.

Register

33. The registrar shall keep a book, which shall be called the register, shall enter therein all certificate of title and shall record therein the particulars of all instruments, dealings and other matters by this Act required to be registered or entered in the register and affecting the land included in the certificates of title.

REGISTRATION

What constitutes registration

36. Every grant shall be deemed and taken to be registered under the provisions and for the purposes of this Act as soon as it has been marked by the registrar

with the folio and volume on and in which it is embodied in the register.

37. Every instrument other than a grant shall be deemed to be registered as soon as a memorandum of it has been entered in the register on the folio constituted by the existing grant or certificate of title of the land.

Keeping of registered instrument

38. The registrar shall retain every registered instrument in the land titles office.

Registration of grants by letters patent or notification

41. Whenever any land is granted in the Territory by the Crown, the letters patent or notification therefor, when issued, shall be forwarded to the registrar of the registration district in which the land so granted is situated, and the registrar shall retain the letters patent or notification in the land titles office.

Certificate of title to person entitled thereto

42. A certificate of title, with any necessary qualification, shall be granted to a patentee or a person named in a notification, and a duplicate of the certificate of title shall be issued to the patentee or person so named, free of all fees and charges, if at the time of the issue thereof there are no encumbrances or other instruments affecting the land registered in the land titles office.

Duplicate

43. If there are any instruments registered that encumber or affect the title to land referred to in section 42, a duplicate of the certificate of title shall be issued on the payment of such fees as are fixed or may be fixed by the Commissioner in Executive Council.

Notification of grant to railway company

44. (1) A notification to the registrar from the federal Minister that the land described in the notification has been granted to the Canadian Pacific Limited, or to any other railway company entitled to Crown lands under the authority of an Act of Parliament, shall be accepted

by the registrar and dealt with in all respects as if it were letters patent in favour of the company.

(2) The notification referred to in subsection (1) shall state the nature of the grant and shall specify any mines, minerals, easements or rights that are excepted from the grant.

Registration of estate for life or for years

45. The owner of any estate for life or for a term of more than three years, in any land for which the grant from the Crown has been registered, may apply to have his or her title registered, and to have a certificate of title issued therefor, under this Act.

APPLICATIONS TO BRING LAND UNDER THIS ACT

Land granted before Act first passed

46. (1) The owner of any estate or interest in any land, whether legal or equitable, letters patent for which issued from the Crown before January 1, 1887, or which otherwise had prior to that date passed from the Crown, may apply to have his or her title registered under this Act.

(2) If, at the time of the grant of the certificate of title to the land described in subsection (1), there are no registered encumbrances or conveyances affecting the land, the certificate may be granted to the patentee on payment of such fees as are fixed by the Commissioner in Executive Council, but no fees are payable therefor under the provisions of this Act relating to the assurance fund.

Territorial lands

47. (1) In this section, "Commissioner" means the Commissioner of the Yukon Territory;

"federal Minister" means any Minister of Her Majesty in right of Canada;

"territorial lands" means territorial lands as defined in section 2 of the *Territorial Lands Act* that are lands for which letters patent, a certificate of title or a notification has not been issued;

(2) Where a federal Minister has the administration, management or control of territorial lands, the federal Minister may apply to have a

certificate of title for those lands issued under this Act in the name of Her Majesty in right of Canada.

(3) Where the right to the beneficial use or the proceeds of territorial lands is appropriated to the Commissioner, the Commissioner may apply to have a certificate of title for those lands issued under this Act in the name of the Commissioner.

(4) No certificate of title shall be issued for territorial lands unless those lands have been the subject of or included within a survey made in accordance with Part II of the *Canada Lands Surveys Act* and a copy of an official plan thereof under that Act has, pursuant to section 30 of that Act, been sent to the registrar of the registration district in which the lands are situated for filing in the land titles office for that district.

(5) Notwithstanding subsection (4), for the purpose of permitting the registration of a utility easement as defined in subsection 80(2) in respect of the pipeline referred to in the *Northern Pipeline Act*, a certificate of title is deemed to have been issued to Her Majesty in right of Canada for the lands described in the plans, profiles and books of reference referred to in subsection 37(2) of that Act and for the lands described in the official plan referred to in subsection 37(4) of that Act.

(6) Where the Surveyor General confirms, under the *Canada Lands Surveys Act*, that a plan of survey under Part II of that Act sent to the Surveyor General pursuant to subsection 37(4) of the *Northern Pipeline Act* is an official plan and a copy of that plan has been sent to the registrar of the registration district in which the lands are situated for filing in the land titles office for that district, a certificate of title shall no longer be deemed to have issued under subsection (5) in respect of those lands described in the plans, profiles and books of reference referred to in that subsection but not included in that official plan.

Registrar to register easements

48. (1) The registrar shall

(a) register any easement as defined in subsection 72(2) that incorporates the plans, profiles and books of reference referred to in subsection 37(2) of the *Northern Pipeline Act*;

(b) register any mortgage or other encumbrance created by Foothills Pipe Lines (South Yukon) Ltd. in respect of the easement referred to in paragraph (a), and issue a certificate of charge therefor; and

(c) on the confirmation by the Surveyor General under the *Canada Lands Surveys Act* that a plan of survey under Part II of that Act sent to the Surveyor General pursuant to subsection 37(4) of the *Northern Pipeline Act* is an official plan, substitute, in the easement, a copy of that official plan for the plans, profiles and books of reference referred to in paragraph (a).

(2) Where an official plan referred to in subsection (1) has been substituted for the plans, profiles and books of reference incorporated in the easement, the easement as amended continues to have full force and effect and any certificate of charge issued in respect of the easement shall be amended accordingly, without further assurance.

(3) Where the Surveyor General confirms, under the *Canada Lands Surveys Act*, that a plan of survey under Part II of that Act sent to the Surveyor General pursuant to subsection 37(4) of the *Northern Pipeline Act* is an official plan, the federal Minister of Energy, Mines and Resources shall cause a copy thereof to be sent to the Registrar General of Canada who shall cause the records maintained by him or her to be amended to conform to that official plan.

How much land in application

51. (1) Contiguous unsubdivided lands not exceeding altogether eight hundred hectares or any number of lots under the same plan of subdivision may be included in one application for registration.

(2) In no case shall one certificate of title issue for more than twenty-five lots, for lots in more than one subdivision or for unsubdivided lands that are not contiguous or that contain more than eight hundred hectares.

EFFECT OF REGISTRATION

Unregistered instruments ineffectual

64. After a certificate of title has been granted for any land, no instrument, until registered under this Act, is, as against any bona fide transferee of the land under this Act, effectual to pass any estate or interest in the land, except a leasehold interest not exceeding three years, or to render the land liable as security for the payment of money.

Effect of registration

65. On the registration of any instrument in the manner prescribed in this Act, the estate or interest specified therein passes, or the land becomes liable as security, in the manner and subject to the covenants, conditions and contingencies set out and specified in the instrument, or declared by this Act to be implied in instruments of a like nature.

Effect of certificate

66. (1) The owner of land for which a certificate of title has been granted, except in case of a fraud in which the owner has participated or colluded, holds the land subject, in addition to the incidents implied by virtue of this Act, to such encumbrances, liens, estates or interests as are notified on the folio of the register that constitutes the certificate of title, but absolutely free from all encumbrances, liens, estates or interests whatever, except the estate or interest of an owner claiming the same land under a prior certificate of title granted under this Act.

(2) The priority referred to in subsection (1) shall, in favour of any person in possession of land, be computed with reference to the grant or earliest certificate of title under which he or she, or any person through whom he or she derives title, has held possession.

Implied reservations, exceptions, etc.

67. The title to the land mentioned in any certificate of title granted under this Act is, by implication, and without any special mention in the certificate, unless the contrary is expressly declared, subject to

- (a) any subsisting reservations or exceptions, contained in the original grant of the land from the Crown;
- (b) all unpaid taxes;
- (c) any public highway or right-of-way or other public easement, however created, on, over or in respect of the land;
- (d) any subsisting lease or agreement for a lease for a period not exceeding three years, where there is actual occupation of the land under the lease or agreement;
- (e) any decrees, orders or executions, against or affecting the interest of the owner in the land, that have been registered and maintained in force against the owner;

(f) any right of expropriation that may, by statute, be vested in the Crown or in any person or body corporate; and

(g) any right-of-way or other easement granted or acquired under the *Irrigation Act*, chapter 104 of the Revised Statutes of Canada, 1927.

Instruments operative on registration

70. Every instrument becomes operative according to the tenor and intent thereof, as soon as it is registered, and thereupon creates, transfers, surrenders, charges or discharges, as the case may be, the land or estate or interest mentioned in the instrument.

Priority in order of registration

71. Instruments registered in respect of or affecting the same land are entitled to priority the one over the other according to the time of registration and not according to the date of execution.

TRANSFERS

Form

72. (1) When land, for which a certificate of title has been granted, is intended to be transferred, or any right-of-way or other easement affecting the land is intended to be created or transferred, the owner may execute a transfer in Form 6, which transfer shall, for the description of the land intended to be dealt with, refer to the certificate of title of the land, or shall give such description as is sufficient to identify the land, and shall contain an accurate statement of the estate, interest or easement intended to be created or transferred, and a memorandum of each lease, mortgage and other encumbrance to which the land is subject.

Utility easements

(2) For the purposes of this section, "easement" includes a utility easement, that is to say, a right, expressed or intended to be capable of assignment, whether or not expressed to be appurtenant to or for the benefit of other land, that is derived otherwise than as a natural right of ownership of the freehold in land,

- (a) to construct, maintain and operate on the land any railway, street railway, tramway or aerial tramway for the transportation of passengers or goods or both;

(b) to construct, maintain and operate through, on, over or under the land pipes, transmission lines or wires

(i) for the transmission or transportation of electrical power, water, oil or gas, or

(ii) for telephone, telegraph or other electronic communication systems;

(c) to construct, maintain and operate through the land ditches and drains for the conveyance of water, sewage or waste products;

(d) to flood the land or control waters on the land, including the formation and break-up of ice, the construction, maintenance and operation of a dam, reservoir, power house or other work for

(i) the generation, manufacture, distribution or supply of electrical power,

(ii) the irrigation or other agricultural use of land, or

(iii) the supplying of water; or

(e) to do such other things in respect of the land as may be specified in regulations made by the Commissioner in Executive Council for the purposes of this subsection.

register that constitutes the existing certificate of title of that other land and on the duplicate thereof.

Total or partial cancellation of certificate on transfer

75. Where a transfer purports to transfer the transferor's interest in the whole or part of the land mentioned in any certificate of title, the transferor shall deliver up the duplicate certificate of title of the land, and the registrar shall make a memorandum setting out the particulars of the transfer on the duplicate certificate of title and on the certificate of title in the register, cancelling the certificate, either wholly or partially, according as the transfer purports to transfer the whole or part only of the interest of the transferor in the land.

Certificate on every subsequent transfer

76. On every transfer of the land mentioned in a certificate of title, the certificate of title to be granted shall be granted by the registrar and a duplicate shall be issued to the transferee on application.

Words of limitation unnecessary

73. (1) No words of limitation are necessary in any transfer of any land in order to transfer all or any title therein, but every instrument transferring land operates as an absolute transfer of all such right and title as the transferor has therein at the time of its execution, unless a contrary intention is expressed in the transfer, but nothing contained herein precludes any transfer from operating by way of estoppel.

(2) The introduction of any words of limitation into any transfer or devise of any land has the like force and meaning as the same words of limitation would have if used by way of limitation of any personal estate.

Memorandum of easements on certificate of dominant as well as servient land

74. Whenever any easement or any incorporeal right in or over any land for which a certificate of title has been granted is created for the purpose of being annexed to or used and enjoyed together with other land for which a certificate of title has also been granted, the registrar shall make a memorandum of the instrument creating the easement or incorporeal right on the folio of the

PLANS

Plans may be required by registrar

77. (1) The registrar may require the owner of any land within the registration district, who wishes to transfer or otherwise deal with the land under this Act, to furnish the registrar with a map or plan of the land, having the several measurements marked thereon, certified by a Canada Lands Surveyor, and prepared on one of the following scales:

(a) if the land proposed to be transferred or dealt with is of less area than one hectare, the map or plan shall be on a scale not less than one centimetre to ten metres;

(b) if the land is of greater area than one hectare but not exceeding two hectares, the map or plan shall be on a scale not less than one centimetre to twenty metres; and

(c) if the land is of greater area than two hectares but not exceeding thirty five hectares, the map or plan shall be on a scale not less than one centimetre to fifty metres.

(2) The owner shall sign the plan and attest the accuracy of the plan in the manner provided in this section for the attestation of all instruments.

(3) If the owner neglects or refuses to comply with the requirements of this section, the registrar shall not proceed with the registration of the transfer or dealing until the requirements are complied with.

(4) Subsequent subdivisions of the same land may be delineated on a duplicate of the map or plan of the land furnished pursuant to subsection (1), if the map is on a sufficient scale, in accordance with the provisions contained in this section, and the correctness of the delineation of each subdivision shall be attested in the manner prescribed for the attestation of an original map.

(5) Where parts of different subdivisions authorized under the Canada lands system of survey are included in the same transfer, the map shall represent the whole of each of the subdivisions and shall indicate the location of the land to be transferred, except in the case of lots in a city, town or village, the plan of which has been registered.

Plans prepared under Acts of Parliament

78. Any plan that has been prepared in accordance with the provisions of any Act of Parliament, and has been lodged or filed with the registrar under or in accordance with those provisions, shall be dealt with and recognized by the registrar, in so far as it is capable of being dealt with and recognized, as if it had been prepared and filed or registered under and in accordance with this Act.

Plans of surrendered Indian reserves

79. Any map or plan attested by the signature of the federal Minister or the federal Minister's deputy, and certified by a Canada Lands Surveyor to be a true copy of a plan of survey filed in the Department, of lands described as surrendered lands in the *Indian Act*, shall be dealt with and recognized in accordance with this Act by the registrar of the registration district in which the lands are situated when the map or plan has been filed with that registrar, notwithstanding that the *Indian Act* does not expressly authorize the map or plan to be so filed.

Maps of town-plots

80. (1) Any owner who subdivides land and lays the land out as a town-plot, for the purpose of selling the land in allotments, shall deposit with the registrar a

map of the town-plot, whether or not a certificate of title has been granted for the land or any part thereof.

(2) The map referred to in subsection (1) shall be made on a scale of not less than one centimetre to fifty metres, and shall show

- (a) the number of the section, township and range, the number of the river lot or the name of the district or reservation, as the case may be, in which the land lies;
- (b) the number of the meridian west of which the range, river lot, district or reservation is situated;
- (c) all boundary lines within the limits of the land shown on the map of sections, river lots, districts or reservations;
- (d) all roads, streets, passages, thoroughfares, squares or reservations appropriated or set apart for public use, with the courses and widths thereof respectively;
- (e) the length and width of all lots;
- (f) the courses of all division lines between lots within the town-plot; and
- (g) the courses of all streams or waters within the limits of the land included in the map.

(3) The lots shall be marked with distinct numbers or symbols.

(4) Every map shall be signed by every owner or the agent of the owner, and certified in Form 7 by a Canada Lands Surveyor, whose respective signatures shall be duly witnessed and attested in the manner provided in this Act for the attestation of instruments to be registered under this Act.

Plans and surveys not binding until sale, etc.

81. (1) In no case is any plan or survey, although filed and registered, binding on the person filing or registering it or on any other person, unless a sale, mortgage, encumbrance or lease has been made according to the plan or survey.

(2) At the instance of the person filing or registering a plan or survey, or of any other person deriving title to any land shown on that plan or survey through the person who filed or registered the plan of survey, cancellation in whole or in part or amendments or alterations of that plan or survey may be made on the order of a judge, if, on application for the purpose duly made and on hearing all parties concerned, it is thought fit and just so to order, and the order may be

on such terms and conditions as to costs and otherwise as may be deemed expedient.

LEASES

Form

82. (1) When any land for which a certificate of title has been granted is intended to be leased or demised for a life or lives, or for a term of more than three years, the owner shall execute a lease in Form 8, and that instrument shall, for description of the land intended to be dealt with, refer to the certificate of title of the land or shall give such other description as is necessary to identify the land.

POWERS OF ATTORNEY

104. (1) The owner of any land may authorize and appoint any person to act for him or her or on his or her behalf with respect to the transfer or other dealing with the land or with any part thereof, in accordance with this Act, by executing a power of attorney in Form 18, or as near thereto as circumstances permit, or in any form heretofore in use for the like purpose in which the land is not specifically mentioned and described, but is mentioned and referred to in general terms, any of which forms of power of attorney the registrar shall register.

(2) If the land referred to in any form of power of attorney is specifically and properly described, the registrar shall make a memorandum on the certificate of title and on the duplicate certificate of the particulars therein contained and of the time of its registration.

(3) Until the power of attorney, in which the land referred to is specifically described is revoked by a revocation in Form 19, the right of the owner to transfer or to otherwise deal with the land is suspended.

(4) The execution or registration of a general power of attorney does not in any way affect the right of the owner to transfer or otherwise deal with his or her land.

TRANSMISSION

Transmission

108. (1) Whenever the owner of any land, for which a certificate of title has been granted, dies, the land, subject to the provisions of this Act, vests in the personal representative of the deceased owner.

(2) The personal representative shall, before dealing with the land, make application in writing in Form 26 to the registrar to be registered as owner of the land in a representative capacity and the application shall be verified by affidavit of the applicant or someone on their behalf in Form 4.

(3) The applicant shall produce to the registrar, at the time of making his or her application, the duplicate certificate, the probate of the will of the deceased owner or letters of administration or the order of the court authorizing him or her to administer the estate of the deceased owner, or a copy certified by the court, of the probate, letters of administration or order, as the case may be, and thereupon the registrar shall enter a memorandum of the application on the certificate of title.

(4) For the purposes of this Act, the probate of a will granted by the proper court of any province of Canada or of the United Kingdom, or an exemplification thereof, is sufficient.

Personal representative deemed owner

109. (1) After the memorandum referred to in subsection 108(3) is made, the executor or administrator, as the case may be, shall be deemed to be the owner of the land.

(2) The registrar shall note the fact of the registration by a memorandum on the probate of the will, letters of administration, order or other instrument.

Title to relate back

110. The title of the executor or administrator to the land referred to in section 108 relates back and takes effect as from the date of the death of the deceased owner.

New certificate

111. The duplicate certificate of the title issued to the deceased owner referred to in section 108 at the time of the making of the application shall be delivered up to be cancelled if not proved to have been lost or destroyed, and the registrar shall grant to the executor or administrator as such a new certificate of title and issue a duplicate certificate to the executor or administrator.

Duty of personal representative

112. If the certificate of title for the land referred to in section 108 has not been granted to the deceased owner, the personal representative, before being entitled to be registered under sections 108 to 111, shall bring the land under this Act in the ordinary way.

Lands belonging to churches and congregations

118. (1) The bishop of any church, any trustees for any church or any congregation of any church holding land for the purposes of any church or congregation shall respectively, with regard to the land and any dealings therewith, be deemed to be a body corporate, and land so held devolves respectively on the successor in office of the bishop or on the successors in office of the trustees duly appointed in manner by law or by the church or congregation prescribed.

(2) The facts necessary to show due appointment of the successors in office may, for purposes of registration, be proved by statutory declaration.

(3) The bishop or trustees and their successors in office shall hold the land on the trusts and for the purposes to which it is legally applicable, but for the purposes of any registered dealings with the land he, she or they, as the case may be, shall be deemed to be the absolute and beneficial owner or owners thereof.

ATTESTATION OF INSTRUMENTS

Attestation in Territory

135. Every instrument executed within the limits of the Territory, except instruments under the seal of any corporation, caveats, orders of a court or judge, executions, or certificates of any judicial proceedings, attested as such, requiring to be registered under this Act, shall be witnessed by one person who shall sign his or her name to the instrument as a witness and

shall appear before the inspector, or the registrar or deputy registrar of the registration district in which the land is situated, or before a judge, notary public, commissioner for taking affidavits, or a justice of the peace in or for the Territory, and make an affidavit in Form 22.

Execution outside Territory

136. Every instrument executed outside the limits of the Territory, except grants from the Crown, orders in council, instruments under the seal of any corporation or caveats required to be registered under this Act, shall be witnessed by one person who shall sign his or her name to the instrument as a witness, and shall appear and make an affidavit in Form 22, before one of the following persons:

(a) if made in any province, before a judge of any court of record, any commissioner authorized to take affidavits in that province for use in any court of record in the Territory or any notary public under the notary's official seal;

(b) if made in Great Britain or Ireland, before a judge of the Supreme Court of Judicature in England or Ireland, a judge of the Court of Sessions or of the judiciary Court in Scotland, a judge of any of the country courts within the judge's district, the mayor of any city or incorporated town under the common seal of that city or town, any commissioner in Great Britain or Ireland authorized to take affidavits therein for use in any court of record in the Territory or any notary public under the notary's official seal;

(c) if made in any part of the Commonwealth and Dependent Territories, other than Canada, before a judge of any court of record, the mayor of any city or incorporated town under the common seal of that city or town or a notary public under the notary's official seal;

(d) if made in a foreign country, before the mayor of any city or incorporated town under the common seal of that city or town, the British consul, vice-consul or consular agent residing therein, a judge of a court of record or a notary public under the notary's official seal.

GENERAL

Regulations

189. The Commissioner in Executive Council may, in cases unprovided for in this Act, make such rules and regulations as the Commissioner in Executive

Council may consider necessary for giving effect to this Act, and carrying out the provisions thereof, according to its intent and meaning.

FORM 7

(s. 80)

I, A.B., Canada Lands Surveyor, do solemnly declare that this plan accurately shows the manner in which the land included therein has been surveyed and subdivided by me, and that the said plan is prepared with the provisions of the *Land Titles Act*.

Dated at, 19

Signed by the said A.B.,

in the presence of

Canada Lands Surveyor

FORM 22

(s. 135 and 136)

AFFIDAVIT OF ATTESTATION OF AN INSTRUMENT

I, A.B., of, in the, make oath and say:

1. That I was personally present and did see named in the (within or annexed) instrument, who is personally known to me to be the person named therein, duly sign and execute the same for the purposes named therein.
2. That the same was executed at the, in the, and that I am the subscribing witness thereto.
3. That I, know the said and he or she is in my belief of the full age of nineteen years.

Sworn before me at
in the this
day of, A.D. 19

(Signature)

Coming into Force

Land Titles Act
Chapter 11, S.Y. 1991; RA 29.05.91

CIF 19.07.93 (O.I.C. 1993/85).

The above excerpts of the *Land Titles Act* are from chapter 11 of the *Statutes of the Yukon, 1991*.

Lands Act

Excerpts from
Chapter 99, R.S.Y. 1986-1990
As amended

Interpretation

1. In this Act,

"applicant" means an individual or corporation who has made an application;

"application" means an application to purchase or lease Yukon lands or to obtain a right-of-way or easement with respect to such lands;

"corporation" means a corporation incorporated or registered in the Yukon and includes a society incorporated under the *Societies Act*;

"disposition" means a sale or lease of Yukon lands or a grant of right-of-way or easement with respect to such lands;

"notification" means a direction issued to a registrar of land titles directing him to issue a certificate of title to a person named in the direction in respect of Yukon lands described therein;

"reserve lands" means Yukon lands that have been withdrawn from disposition;

"Yukon lands" means properties to which this Act applies.

Application of the Act

2. (1) This Act applies with respect to all properties in the Yukon that are vested in Her Majesty in right of Canada but the right to the beneficial use or to the proceeds of which is appropriated to the Government of the Yukon and is subject to the control of the Legislature.

(2) Nothing in this Act shall be construed as limiting the operation of the *Yukon Quartz Mining Act* (Canada), the *Yukon Placer Mining Act* (Canada) or the *Dominion Water Power Act* (Canada) and every disposition of the Yukon lands is subject to the provisions of sections 5, sections 8 to 12 and paragraph 19(j) of the *Territorial Lands Act* (Canada).

Disposition of Yukon lands

3. (1) Subject to this Act and the regulations, the Executive Council Member may

(a) sell or lease Yukon lands, or

(b) grant of right-of-way or easement with respect to Yukon lands,

to any individual who has attained the full age of 19 years or to any corporation.

(2) The Executive Council Member may dispose of Yukon lands only after

(a) he has received an application with respect to such lands, or

(b) tenders for such lands have been called for by public notice.

Agreement for sale

4. Where the Executive Council Member intends to sell Yukon lands, he may enter into an agreement for sale of those lands with the proposed purchaser, which agreement shall contain such terms and conditions as the Executive Council Member deems appropriate.

Withdrawal from disposition

7. (1) Where the Commissioner in Executive Council considers it advisable in the public interest, he may by order

(a) withdraw any Yukon lands from disposition under this Act, or

(b) designate the most desirable use of any Yukon lands and withdraw such lands from disposition under this Act for any purpose other than the use so designated.

(2) The Commissioner in Executive Council may revoke or amend any order made by him pursuant to subsection (1), but where an application is made with respect to any reserved lands, a disposition of or with

respect to those lands may, for a period of not less than one year after the application is made, be made only after tenders for such lands have been called for by public notice, unless the applicant requires the lands for a use designated in the order.

Application for disposition

8. (1) Where an individual or corporation wishes to purchase or lease the lands or obtain a right-of-way or easement with respect to Yukon lands and those lands are not the subject matter of a call for tenders, that individual or corporation may make an application to the Executive Council Member

- (a) specifying whether the individual or corporation seeks to purchase, lease or obtain a right-of-way or easement,
- (b) describing the location of the lands with respect to which the disposition is sought, and
- (c) specifying the purpose for which the lands are to be used.

(2) Every application made pursuant to subsection (1) shall be accompanied by such evidence as is prescribed to show that the applicant is eligible to obtain a disposition of Yukon lands and, where a survey of those lands exists, by a copy of such survey.

Term of lease and renewal

14. No Yukon lands may be leased for a term exceeding 30 years, but where the terms of the lease so provide, a lease of Yukon lands may at the option of the lessee with the approval of the Executive Council Member be renewed for one additional term not exceeding 30 years.

Term of right-of-way and easement

19. No grant of the right-of-way or easement with respect to Yukon lands may be made for a term exceeding 30 years but any such right-of-way or easement may be renewed, at the option of the holder of the right-of-way or easement, for two additional terms not exceeding 30 years each.

Errors respecting dispositions

21. (1) Where, in respect of an agreement for sale or disposition made under this Act, it is brought to the attention of the Executive Council Member that

- (a) a clerical error was made respecting the name or description of a person who is a party to the agreement or of the person to whom the disposition was made, the description of the lands or any other material part of the agreement or disposition,
- (b) the lands were not available for disposition,
- (c) the survey of those lands is incorrect,

the Executive Council Member may where he considers it advisable cancel the agreement or disposition or make whatever changes or adjustments he deems appropriate.

Abandonment

22. (1) A person may abandon a disposition of Yukon lands with the written approval of the Executive Council Member and subject to such terms and conditions as the Executive Council Member may determine.

(2) Where a disposition of Yukon lands is abandoned pursuant to subsection (1), the right to the beneficial use or to the proceeds of such lands is re-appropriated to the Government of the Yukon.

Regulations

31. The Commissioner in Executive Council may make such regulations and prescribe such forms as he deems necessary for carrying out the purposes and provisions of this Act.

The above excerpts of the *Lands Act* are from chapter 99 of the *Republished Statutes of the Yukon, 1986-1990*.

Limitation of Actions Act

Excerpts from
Chapter 104, R.S.Y. 1986 - 1990
As amended

Interpretation

1. In this Act,

"action" means any civil proceeding;

"disability" means disability arising from infancy or a mental disorder;

"land" includes all corporeal hereditament, and any share or any freehold or leasehold estate or any interest in any of them;

"mortgage" includes charge, "mortgagor" includes chargor, and "mortgagee" includes chargee;

"proceedings" includes action, entry, taking of possession, distress and sale proceedings under an order of a court or under a power of sale contained in a mortgage or conferred by Act;

"rent" means a rent service or rent reserved upon a demise;

"rent charge" includes all annuities and periodical sums of money charged upon or payable out of land.

accounting, within six years after the cause of action arose;

(h) actions grounded on accident, mistake or other equitable ground or relief not hereinbefore specially dealt with, within six years from the discovery of the cause of action;

(j) any other action not in this Act or any other Act specially provided for, within six years after the cause of action arose.

(2) Nothing in this section extends to any action where the time for bringing the action is by an Act specially limited.

Person under disability

5. Where a person entitled to bring any action mentioned in paragraphs 2(1)(c) to (i) is under disability at the time the cause of action arises, he may bring the action within the time limited by this Act with respect to such action or at any time within two years after he first ceased to be under disability.

PART 1

LIMITATION PERIODS

Periods of limitations

2. (1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

(e) actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose;

(f) actions for the recovery of money, except in respect of a debt charged upon land, whether recoverable as a debt or damages otherwise, and whether on a recognizance, bond, covenant or other specialty or on a simple contract, express or implied, and actions for an account or for not

PART 3

LAND

Part subject to Land Titles Act

16. This part is subject to the provisions of the *Land Titles Act*.

S.Y. 1991, c. 11, s. 200.

Recovery of land

17. No person shall take proceedings to recover any land but within ten years next after the time at which the right to do so first accrued to some person through whom he claims, hereinafter called "predecessor" or if such right did not accrue to a predecessor then within ten years next after the time at which such right first

accrued to the person taking the proceedings, hereinafter called "claimant".

PART 7

GENERAL

Entry, claim and profits on land

43. (1) No person shall be deemed to have been in possession of land, within the meaning of this Act, merely by reason of having made an entry thereon.

(2) No continual or other claim upon or near any land shall preserve any right of making an entry or distress or bringing an action.

Expiry of right of action terminates title

44. At the determination of the period limited by this Act, to any person for taking proceedings to recover any land, rent charge or money charged on land, the right and title of such person to the land, or rent charge or the recovery of the money out of the land shall be extinguished.

Persons under disability

46. (1) When at the time at which the right to take any proceedings referred to in Part 2, 3 or 4 first accrued to any person who was under disability, such person or a person claiming through him may, notwithstanding anything in this Act, take proceedings at anytime within six years after the person to whom the right first accrued first ceased to be under disability or died, whichever event first happened, except that if he died without ceasing to be under disability, no further time to take proceedings shall be allowed by reason of the disability of any other person.

(2) Notwithstanding anything in this section, no proceedings shall be taken by a person under disability at the time the right to do so first accrued to him by any person claiming through him, but within 30 years next after that time.

No right to use of light by prescription

49. No right to the access and use of light or any other easement, right in gross or profit à prendre shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to November 20, 1954.

The above excerpts of the *Limitation of Actions Act* are from chapter 104 of the *Republished Statutes of the Yukon, 1986-1990*, as amended by:

- S.Y. 1991, c. 11, s. 200; RA 29.05.91; CIF 19.07.93 (O.I.C. 1993/85).

Municipal Act

Excerpts from
Chapter 119, R.S.Y. 1986-1990
 As amended

PART 1

INTERPRETATION

Interpretation

1. In this Act,

"administrator" means a person appointed as administrator under this Act;

"board" means a board appointed by council pursuant to this Act to provide advice and recommendations to council;

"city" means any city established as a city under this Act;

"clerk" means a clerk of a municipality;

"commission" means a commission appointed by a council pursuant to this Act with powers and duties as provided;

"corporation" means a corporation, a company, a society, a sole proprietor, a cooperative association or a firm of partners;

"council" means the council of a municipality;

"hamlet" means a hamlet established under this Act;

"highway" includes a street, road, lane, bridge, viaduct and any other way open to use by the public and all road allowances made therefor, but does not include a private right-of-way or the highways excluded by an order made pursuant to section 252;

"inspector" means the inspector of municipalities appointed under this Act;

"mayor" means the mayor of a city, town or village;

"municipality" means any part of the Yukon established as a city, town or village under this Act;

"owner" means an owner of real property and includes a person having any right, title, estate or interest in real property other than that of an occupier or mortgagee;

"real property" means land and all buildings, fixtures, machinery, structures and things erected upon or under or affixed thereto;

"regulating" includes authorizing, controlling, inspecting, limiting and restricting;

"town" means any town established as a town under this Act;

"village" means any part of the Yukon established as a village under this Act.

Exercise of powers of municipal officer

2. Words in this or any other Act, or in any regulation passed under such Acts, or in any bylaw or resolution of a council, directing or empowering any officer of the municipality to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office and his lawful deputy, and such person as the council may from time to time by bylaw or resolution designate to act in his place or stead.

Jurisdiction of council

5. The jurisdiction of every council is confined to the municipality the council represents, except where authority beyond the same is expressly conferred by this or any other Act.

PART 2

INCORPORATION

DIVISION 1 - INCORPORATION

Municipal corporations

6. (1) Every city, town or village created or established in the Yukon under this Part shall be a municipal corporation under the name of

- (a) in the case of cities, "the City of ...",
- (b) in the case of towns, "the Town of ...", and
- (c) in the case of villages, "the Village of ...".

(2) A corporation created or established under this Part has all rights and liabilities of a corporation and has full power, subject to the provisions of this Act, to acquire by purchase, lease or otherwise and to hold real property, and to sell or lease real property and likewise to acquire, hold, sell or lease personal property and to contract for material or services.

(3) The corporation of the City of Dawson is continued as a town under this Act and, notwithstanding subsection (1), it shall have the name "City of Dawson" and the boundaries prescribed by the Commissioner in Executive Council.

(4) The corporation of the City of Whitehorse is continued as a municipality under this Act and with the boundaries prescribed by the Commissioner in Executive Council.

(5) The corporation of the Town of Faro is continued as a municipality under this Act and with the boundaries prescribed by the Commissioner in Executive Council.

(6) The corporation continued under subsections (3), (4), and (5) shall, for the purposes of this Act, be deemed to have been incorporated as municipal corporations under this Act.

Order establishing new municipality

8. (1) If the time limited for an appeal under subsection 7(1) has expired and no appeal has been taken, or if an appeal was taken within that time and the Yukon Municipal Board has made its report or the time prescribed for the board to make its report has expired, the Commissioner in Executive Council may establish the municipality as it was originally proposed or with modifications.

(3) The order of the Commissioner in Executive Council establishing the municipality shall specify

- (a) the name, boundaries, areas and class of the municipality,

Class and jurisdiction of new municipality

9. (1) The class of municipality to be established shall be as follows;

- (a) village, for estimated populations of 300 to 1,000;
- (b) town, for estimated populations of 500 to 3,000;

- (c) city, for estimated populations of over 2,500.

(2) Any area set aside by law as a national park or a territorial park or a game preserve or sanctuary established by law and contained within the boundaries of a municipality is outside the jurisdiction of the municipality unless otherwise prescribed.

DIVISION 2 - CHANGE OF STATUS OR BOUNDARIES

Change of status

12. (1) The status of a municipality may be changed to some other class that the municipality is eligible for under section 9, and the change may be made by the same proponents and procedure and be subject to the same appeal as is established under section 14 for a boundary alteration to reduce the area of the municipality.

Transitional provisions for change of status

13. When a municipality, herein called the "old municipality", changes its status from one class of municipality to another, herein called the "new municipality",

(a) the mayor of the old municipality continues as the mayor of the new municipality until his successor is sworn into office,

(b) each other member of the council of the old municipality continues as a member of the council of the new municipality until his successor is sworn into office,

(c) each officer and employee of the old municipality continues as an officer or employee of the new municipality with the same rights and duties until the council of the new municipality otherwise directs,

(d) all bylaws and resolutions of the old municipality continue as the bylaws and resolutions of the new municipality, insofar as they are not inconsistent with this Act, until they are repealed or others are made in their stead by the council of the new municipality,

(g) all property vested in the old municipality becomes vested in the new municipality and may be dealt with by the new municipality in its own name subject to any trusts or other conditions applicable thereto, and

(h) all other assets, liabilities, rights, duties, functions and obligations of the old municipality

become vested in the new municipality and may be dealt with by it in its own name.

Order for alteration of boundaries

16. If the time limited for an appeal under subsection 14(1) or (3), as the case may be, has expired and no appeal has been taken, or if an appeal has been taken and the Yukon Municipal Board has made its report or the time prescribed for the board to make its report has expired, the Commissioner in Executive Council may order that the boundaries of the municipality be altered as proposed or with modifications in the proposal.

Transitional provisions for alteration of boundaries

17. (1) When the boundaries of a municipality are altered

- (a) the mayor, if he continues to reside in the municipality, shall continue as mayor of the new municipality until his successor is sworn into office,
- (b) each other member of the council who continues to reside in the municipality continues to be a member of the council of the new municipality until his successor has been sworn into office,
- (c) each officer and employee of the old municipality continues as an officer or employee of the new municipality with the same rights and duties until the council of the new municipality directs otherwise,
- (d) all bylaws and resolutions of the old municipality continue as the bylaws and resolutions governing the additional area included within the boundaries of the new municipality, insofar as they are not inconsistent with this Act, until they are repealed or others are made in their stead by the council of the new municipality,

DIVISION 3 - DISSOLUTION

Order for dissolution

18. (1) If the time for an appeal under subsection 14(4) has expired and no appeal has been taken, or if an appeal has been taken and the Yukon Municipal Board has made its report or the time prescribed for the board to make its report has expired, the Commissioner in Executive Council may order that the municipality be dissolved.

(3) Upon the dissolution of a municipality all property and assets of the municipality shall be transferred to the Government of the Yukon under such terms and conditions as the Commissioner in Executive Council may prescribe, and all taxes imposed by the municipality remaining unpaid shall be deemed to be taxes imposed by the Commissioner in Executive Council under the *Assessment and Taxation Act* on the date of their imposition.

DIVISION 4 - FORMATION OF HAMLETS

Orders establishing hamlets

19. The Commissioner in Executive Council may, by order, designate any area of land to be established as a hamlet and may provide such services as are set out in the order, impose any regulation authorized under this Act or any other Act for municipalities, and impose such taxes, licenses, charges and fees to contribute to the cost of providing works and services as provided in this Act for the benefits of the residents.

Contents of orders

20. The order establishing a hamlet shall include but shall not be restricted to providing for title, boundaries, works or services to be provided and the date the order becomes effective.

Ownership of property

28. Real and personal property including works of any kind acquired for the hamlet shall be held by the Government of the Yukon on behalf of the hamlet.

Dissolution

29. The Commissioner in Executive Council may dissolve any hamlet upon the advice of the inspector and make disposition of its assets as appears equitable.

Variation of orders establishing hamlets

30. The Commissioner in Executive Council may at any time vary or amend the order establishing a hamlet.

PART 4

Duties of the clerk

GOVERNMENT AND PROCEDURE

DIVISION 1 - MUNICIPAL COUNCILS

Requirement to have a council

152. (1) Every municipality shall have a council, the members of which shall be elected in accordance with the provisions of this Act.

Exercise of municipal powers

156. Except as otherwise provided by this Act, the powers of every municipality shall be exercised by the council of the municipality.

Corporate Seal

159. Every municipality shall have and maintain a corporate seal which shall be in the clerk's custody.

DIVISION 4 - POWERS AND DUTIES OF MAYOR

Role of the mayor

174. The mayor of a municipality shall be a member of the council, shall preside over all meetings of the council, and shall be chief executive officer of the municipality.

Deputy mayor

175. The council may appoint from among the members a deputy mayor who shall

- (a) in the absence or incapacity of the mayor, have all the powers and duties of the mayor, and
- (b) when the mayor is not absent or incapacitated, and subject to the mayor taking precedence, have such powers and duties as the council may direct.

DIVISION 6 - OFFICERS AND EMPLOYEES

Clerk

183. Council shall appoint a clerk who shall hold office during the pleasure of the council.

S.Y. 1988, c. 20, s. 3.

184. The clerk, in addition to the duties and powers which may from time to time be prescribed by the council, shall

- (a) have custody of the corporate seal of the municipality and cause it to be affixed as required,
- (d) keep the original of every bylaw of the council after having seen to its proper completion,
- (e) furnish copies of bylaws to any person applying thereof and may charge such fee as the council may prescribe, and
- (f) administer oaths and take and receive affidavits and declarations within the municipality required to be taken under this Act or any other Act relating to the municipality.

DIVISION 7 - BYLAWS

Bylaws to be written and signed

197. Every bylaw shall be in writing under the seal of the municipality and shall be signed by the person presiding at the meeting at which the bylaws are adopted and by the clerk.

Registration

198. A true copy of every bylaw adopted by council as signed by the mayor or person presiding at the meeting at which such bylaw was adopted and by the clerk under the seal of the municipality and certified to be a true copy by the clerk, shall be deposited for registration with the inspector.

PART 5

POWERS AND DUTIES OF COUNCIL

DIVISION 6 - WORKS AND SERVICES

Municipal property

248. (1) Council may by bylaw acquire for municipal purposes by purchase, gift, lease or otherwise any real property and any rights, easements, privileges in and to real property from Canada or the Government of the Yukon or any person.

(2) Council may by bylaw reserve for a specific municipal or public purpose any land owned by the municipality.

(3) Council may by bylaw remove any reservation issued pursuant to subsection (2).

(4) Council may by bylaw sell by auction or otherwise, on such terms and conditions as deemed advisable, the interest of the municipality in any real property not required for municipal purposes and which is not reserved.

(5) Council may by bylaw lease any real or personal property held or owned by the municipality for any term or terms, including renewal options not exceeding in the aggregate 99 years.

(6) A bylaw under subsection (1), (4), or (5) may authorize an officer or employee of the municipality to make the acquisition, sale, or lease on behalf of the municipality.

S.Y. 1988, c. 20, s. 12.

Expropriation

249. (1) Subject to the *Expropriation Act*, the council of a city may, without the consent of the owner, enter upon and expropriate any land that it deems necessary for the public purposes of the municipality.

(2) The council of a town or village may petition the Commissioner in Executive Council to expropriate on their behalf any land that it deems necessary for the public purposes of the municipality, and the Commissioner in Executive Council may, upon assurance from the council that they will bear the costs involved, proceed with expropriation pursuant to the provisions of the *Expropriation Act*.

DIVISION 7 - HIGHWAYS

Jurisdiction

252. (1) All allowances made for roads in any municipality, all roads laid out pursuant to any Act or bylaw, and all roads dedicated to the public use shall be deemed, for the purpose of this Act, to be highways.

(2) Subject to this Act and the *Highways Act* and to any rights reserved by any person laying out or dedicating a highway, every municipality has jurisdiction over all highways within the limits of the municipality, and the management and control of all highways shall be vested in the municipality except

highways excluded by an order made pursuant to subsection (3).

(3) Notwithstanding any other section of this Act, the Commissioner in Executive Council may by order provide that any section of this Act shall not apply to any highway described in the order.

Bylaws

254. (1) Council may by bylaw

(a) establish, widen, alter, relocate, or divert a highway or any portion of a highway,

(b) stop up and close to traffic a highway or any portion, or re-open any highway or portion that has been closed to traffic,

(d) assign the name or number of any highway, or alter the name or number of the highway, which shall have no effect until a certified copy is filed in the land titles office,

(i) authorize encroachment on a highway, delegate the power to authorize encroachment on a highway, and set a periodic or single fee for encroaching on a highway;

S.Y. 1987, c. 29, s. 3.

PART 6

REGULATORY

DIVISION 1 - BUILDING REGULATIONS

Building standards bylaws

274. (3) Any bylaw for the health, safety and protection of persons and property may

(a) regulate the construction, alteration, repair or demolition of buildings and structures,

(g) regulate the construction and layout of trailer courts, mobile home parks and camping grounds, and require that such courts, parks and grounds provide facilities specified in the bylaw,

PART 7**PLANNING, LAND USE AND DEVELOPMENT****DIVISION 1 - OFFICIAL COMMUNITY PLAN***Time for adoption*

296. (1) The council of a municipality shall, within two years of incorporation, adopt by bylaw an official community plan in accordance with the provisions of this Part.

(2) The Executive Council Member may from time to time extend the time for the adoption of an official community plan.

(3) The Executive Council Member may, after consultation with the council of a municipality, direct the council to prepare or amend an official community plan for all or part of the municipality.

(4) A community plan already adopted by bylaw when this Act comes into force shall continue in force until amended or replaced under this Act.

(5) A bylaw respecting the adoption or amendment of a community plan is not valid unless, before it is given third reading, it is approved by the Executive Council Member.

Contents

298. (1) An official community plan may consist of any descriptive documents such as maps, drawings, photographs, plans, reports or statements, and it shall be published in a documentary form that may easily be made available to taxpayers and electors in the municipality.

Effect of plans

303. (1) Council shall not enact any provision or carry out any development contrary to or at variance with an official community plan.

(2) No person shall carry out any development that is contrary to or at variance with an official community plan.

(3) The Governments of Canada and the Yukon, and any agency thereof, shall not carry out any development contrary to or at variance with an official community plan.

(4) Notwithstanding subsection (2), council is not empowered to impart the rights and privileges to which an owner of land is otherwise lawfully entitled.

(5) The adoption of an official community plan shall not commit the council or any other person, association or organization, or any department or agency of the Governments of Canada or the Yukon to undertake any of the projects outlined in the official community plan.

(6) The adoption of an official community plan does not authorize council to proceed with the undertaking of any project except in accordance with the procedure and restrictions laid down therefor by this or any other Act.

Conflict with other bylaws and regulations

304. Where any existing zoning bylaw or regulation under the *Area Development Act* is at variance with the provisions of an official community plan, the provisions of the plan shall supersede the provisions of the bylaw or regulation.

Amendments

305. An official community plan may be amended, but any such amendment shall be made in accordance with the procedure and subject to the same approvals as established in this Division for the preparation and adoption of such a plan.

DIVISION 2 - ZONING BYLAWS*Existing bylaws and regulations*

308. (1) A zoning bylaw approved under any former *Municipal Act* and subsisting on the day on which this Act comes into force is continued in force until repealed as provided in this Act.

(2) A regulation under the *Area Development Act* shall remain in force in relation to an area that becomes part of a municipality under this Act until it is repealed or amended by a bylaw passed by the council of the municipality.

Time for adoption of zoning bylaws

309. (1) Where an official community plan is adopted the council shall within one year adopt a

zoning bylaw applicable to the land affected by the official community plan.

(2) The Executive Council Member may from time to time extend the time allowed for adoption of a zoning bylaw.

(3) The Executive Council Member may, after consultation with the council of a municipality, direct the municipality to prepare or amend a zoning bylaw for all or part of the municipality.

Contents

311. (1) A zoning bylaw shall provide for the establishment of a board of variance and shall provide for an appeal to it and an appeal from it to the Yukon Municipal Board in accordance with the provisions of this Part.

(2) A zoning bylaw shall not contain any provision that would permit only public development or that would not permit any use of the land, buildings or structures.

(3) Subsection (2) does not apply to any bylaw in respect of land, buildings or structures that are

(a) owned by the Government of the Yukon or Canada, if the Government of the Yukon or Canada, as the case may be, consent to the bylaw, or

(b) owned by the municipality.

Development permits and zoning

312. (1) A zoning bylaw may provide for a system of development and use permits, prescribe the terms and conditions under which a permit may be issued, suspended or revoked, and prescribe forms for permits and applications therefor.

(2) A zoning bylaw may prescribe the development permitted in a district for which no development permit shall be required.

(3) For greater certainty but without limiting the purpose of a zoning bylaw stated by section 310, every zoning bylaw may prescribe or establish zones or districts of such number, shape and area as may be considered by the council best suited for any or all of the following purposes or any other unspecified purpose and, within those districts or any of them, may

(a) permit, regulate or prohibit the use of land for business, industry, residence or any other purpose,

(e) prescribe the minimum and maximum size of lots or parcels into which land may be subdivided and the minimum area of land required for any particular class of use or size of building,

(i) regulate the percentage of a lot or parcel of subdivided land that may be built upon and the size of yards, courts and other open spaces,

(l) regulate or prohibit the location of campers, trailers and mobile homes, campgrounds, trailer parks and mobile home parks and mobile home subdivisions, and regulate the internal layout and standard of services to be provided in campgrounds, trailer parks and mobile home parks,

(o) regulate the location of buildings or structures to ensure the optimum exposure of buildings to the sun and to ensure that no building inhibits the exposure of another building, whether on the same lot or adjacent land, to the sun,

Effect of zoning bylaws

320. (1) Council shall not enact any provision or carry out any development contrary to or at variance with a zoning bylaw.

(2) No person shall carry out any development that is contrary to or at variance with a zoning bylaw.

(3) The Governments of Canada and the Yukon and any agency thereof shall not carry out any development contrary to or at variance with a zoning bylaw.

(4) Notwithstanding subsection (2), council is not empowered to impair the rights and privileges to which an owner of land is otherwise lawfully entitled.

DIVISION 4 - SUBDIVISIONS

Interpretation

326. In this Division,
"application" means an application for approval of a proposed subdivision of land;

"subdivision" means the division of a lot or parcel by an instrument, or the creation of a new parcel from previously unsubdivided land.

Compliance with the Act

327. No subdivision of land shall be valid unless it is made in accordance with this Act.

Approving authority

328. The Commissioner in Executive Council may declare that, from a date to be named in the order,

- (a) an approving officer appointed under the *Subdivision Act* shall be the approving authority within that area of a municipality not under the jurisdiction of any other approving authority, or
- (b) a council shall be an approving authority within the area under its jurisdiction,

but a council shall only be made an approving authority if it has adopted a subdivision control bylaw approved by the Executive Council Member.

S.Y. 1994, c. 19, s. 27.

Highway access

329. (1) Every person who applies for subdivision of land shall provide for adequate highway access to each lot created by the subdivision.

(2) The highway access that is required under this section shall be made to conform to any standards that may be set under this Act or under any subdivision or zoning bylaw of the municipality.

(3) The cost of providing the highway access under this section shall be borne by the applicant.

(4) Subsections (1), (2) and (3) do not apply to

- (a) land intended for use as a railway right-of-way, or a right-of-way for a ditch, irrigation canal, pipeline, telecommunication or power transmission line, or a municipal utility described in section 333, or
- (b) land conveyed or to be conveyed to the owner of adjoining land to which access has been provided by a public highway, if in the opinion of the approving authority the land conveyed or to be conveyed and the adjoining land are to be used for a common purpose and if the certificates of title to the lands may be consolidated into one certificate for one consolidated parcel of land.

(5) The requirement for access under subsections (1), (2) and (3) may be waived by the approving authority where strict compliance is impractical or

unnecessary, but the design shall not be such as to preclude the provision of access at some future time.

Bylaws

330. A council may make bylaws for controlling the subdivision of land within the municipality.

Dedications for public use

331. (1) Every plan of proposed subdivision shall make provision for the dedication to the public use, in addition to streets and lanes, of up to ten percent of the land to be subdivided, except that the requirements of this section do not apply to

- (a) land to be subdivided into units of four hectares or over in area,
- (b) land intended for a railway station ground or right-of-way, a right-of-way for a ditch, irrigation canal, pipeline, telephone line or power transmission line, a reservoir or a sewage lagoon, or
- (c) land to be resubdivided for the purpose of correcting or rearranging boundaries of land previously included in an area subject to the requirements of this section,

and where reversionary rights have been exercised on any subdivision, no further deduction for public use shall be required.

(2) Notwithstanding subsection (1), where land adjacent to surface water or any other body of water is to be subdivided for other than public recreational uses, the following dedication of land to the public use may be required:

- (a) a parcel of land, of such width as may be determined by the approving authority, lying between the bank of the land containing the water and the land to be retained by the owner, for the preservation of the bank and the protection of the land retained by the owner against flooding and to provide public access to the water;
- (b) other land as may be required to provide access to the shoreline of the land containing the water to serve the proposed subdivision, not exceeding ten percent of the area of the land to be subdivided.

(3) Where the approving authority so determines, no subdivision shall be carried out on any sloping land or on any land that the approving authority considers may be unstable unless it has been certified, after a consideration of geotechnical survey data and analysis

in respect of the land carried out in accordance with good professional practice at the expense of the person proposing the subdivision, that the land is suitable for development; and where subdivision of the land is not permitted the land may be dedicated to the public use and may be accepted as part of the land required to be dedicated to the public use if the dedication is approved under subsection (5).

(4) Notwithstanding subsection (1), where the land to be subdivided contains ravines, swamps, natural drainage courses or other areas that in the opinion of the approving authority are unsuitable for building sites or other private uses, the approving authority may require that those areas be dedicated to the public use as parks, natural areas or areas for public recreational use in addition, or in part contribution, to the amount of land that is required to be dedicated to the public use pursuant to this section.

(5) The location and suitability of land dedicated to the public use shall be subject to the approval of the approving authority.

(6) Each parcel of land dedicated to public use shall vest in the Crown as Yukon lands.

(7) Where land that was subject to the requirement for the dedication of a certain amount of the land to the public use or that was subdivided prior to the requirement for such dedication is designated under a zoning bylaw for residential use by more than ten dwellings per hectare of the land that is subject to the plan of subdivision, or where an owner requests rezoning of any other land not previously subject to dedication to the public use, provision may be made for the dedication of additional land to the public use, but the total dedication shall not be more than the percentage required in subsection (1), and in such case the approving authority may require the registered owner of the land either

- (a) to submit, within three months from the date of mailing of the notice, a plan of survey dedicating the required land to the public use, or
- (b) to pay to the council, within three months from the date of mailing of the notice, an amount equal to the fair value of the required land,

and the council may

- (c) withhold or authorize its proper officer to withhold a development permit or a building permit for any building or other structure on the land subject to the requirement for dedication to the public use or payment in lieu thereof, or
- (d) refuse the request for rezoning of the land.

(8) Notwithstanding subsection (1), where it appears to the approving authority that the dedication of land to the public use by a person proposing a subdivision of land would serve no practical purpose or for any other reason would be unnecessary or undesirable, the approving authority may direct that the requirements of dedicating land to the public use in respect of the proposed subdivision

(a) be deferred in whole or in part until a further subdivision is made, or

(b) be waived in total or in part, and may provide that in lieu thereof the applicant be required to pay to the municipality a sum of money in an amount no greater than the value of the land that would otherwise have been dedicated to the public use, and may direct the time and method of payment.

(9) For the purpose of subsection (8), the value of the land shall be determined on the basis of its fair value immediately after the subdivision of the land, and such fair value shall be established pursuant to the *Assessment and Taxation Act*.

(10) Where the dedication of land to the public use is deferred under paragraph (8)(a), the approving authority shall file a caveat against the title of the land concerned to protect the interest of the future requirement of dedicating to the public use the required amount of land.

S.Y. 1988, c. 20, s. 17.

Buffer strips

332. (1) Where a subdivision design requires the provision of land as a buffer between adjacent lands and the land to be so provided consists of strips for the development or preservation of earth berms or plantings, the plan of subdivision shall, in addition to the requirement of the dedication of lands for the public use, provide for strips of land of adequate width to accomplish the intended purpose, and the buffer strips shall vest in the Crown as Yukon lands.

(2) The amount of land required to be provided as buffer strips in a subdivision of land other than for residential purposes may be included in calculating the amount of land required to be dedicated to the public use in a subdivision of land where the approving authority considers that the public interest is best served by such an arrangement.

Utility subdivisions

333. (1) Where a subdivision is proposed that would create a parcel of land exclusively for the use of a municipal water, sanitary sewer, drainage, electrical, natural gas, telecommunications or other similar service or utility, the parcel may be of such shape and size as may be required, shall only be used for such utility, and shall vest in the Crown as Yukon lands.

(2) Where a utility occupies a right-of-way which is an easement over other land, the requirements of subsection (1) shall not apply.

Crown lands

334. All lands dedicated to the public use and lands constituting buffer areas vested in the Crown as Yukon lands by reason of the registration in the land titles office of the plan of the subdivision of land into lots, blocks or parcels, and all land transferred by any person to the Government of the Yukon for public use, may be sold, leased or otherwise disposed of or transferred to any municipality subject to any condition which may be prescribed.

Regulations

335. The Commissioner in Executive Council may make regulations consistent with this part for controlling the subdivision of land where under section 328, an approving officer appointed under the *Subdivision Act* is the approving authority.

S.Y. 1994, c. 19, s. 28.

Application to subdivide

336. (1) An owner or any person who proposes to subdivide land, hereinafter referred to as the applicant, shall submit an application to the approving authority in accordance with the requirements of the regulations prescribed by the approving authority.

(2) If the applicant is not the owner of the land to be subdivided, the applicant shall submit to the approving authority the owner's written consent to the subdivision.

Approval of applications

337. (1) If the application for subdivision complies with this or any other Act and with any bylaw or

regulation made thereunder, the approving authority shall approve the subdivision.

(2) Approval of an application shall be valid for a period of 12 months and shall be subject to renewal for one or more periods of 12 months at the discretion of the approving authority.

(3) Subject to any other provisions of this Act, where an approving authority is of the opinion that compliance with a requirement of any applicable regulation is impractical or undesirable because of circumstances peculiar to a proposed subdivision, the approving authority may relieve the applicant in whole or in part from compliance with the requirement, but no relief shall be granted that is contrary to the provisions of an official community planar zoning bylaw.

Revocation of approvals

338. (1) An approving authority may revoke an approval of a proposed plan of subdivision where the plan has not been registered in the land titles office or where certificate of title to the land has not been issued, as the case may be, if in its opinion it is necessary to do so.

(2) A revocation of approval of a proposed plan of subdivision may be appealed in the same manner as a refusal to approve the proposed plan may be appealed.

Refusal of approval

339. (1) Subject to section 337, the approving authority shall refuse to approve a plan of proposed subdivision if the plan is inconsistent with any of the provisions of this Act or of any order, regulation, bylaw or other planning scheme issued, made or approved under this or any other Act.

(2) Where the approving authority refuses to approve a plan of subdivision the authority shall advise the applicant of this right to appeal under this Act and shall notify him respecting the time within which an appeal may be made.

Appeal of refusal

340. Where an application for approval of a proposed plan of subdivision is refused the applicant may, within 30 days after the date on which he is served with notice of the refusal and after giving written notice to the approving authority of his

intention to do so, appeal therefrom to the Yukon Municipal Board.

Notice of refusal or revocation

341. Where an approving authority refuses or revokes an approval of a proposed plan of subdivision, the authority shall serve the applicant with notice of the refusal or revocation by sending to him a notice thereof to the address contained in the application or by serving him personally with a copy of the notice.

Delay of approval

342. (1) An application to subdivide land shall be considered approved if a decision has not been made by the approving authority within 90 days of the submission of the application.

(2) Notwithstanding subsection (1), the time allowed for consideration of an application may be extended with the approval of the Executive Council Member.

Time for renewed applications

343. No subsequent unaltered application for approval of a proposed subdivision of land that provides for the same use of the land shall be made by the same or any other person within six months of the date of the refusal by the approving authority.

Subdivision by lease or encumbrance

344. (1) Where an instrument

- (a) granting a lease of part only of a parcel of land, or
- (b) charging, mortgaging or otherwise encumbering a part only of a parcel of land

has the effect or may have the effect of subdividing the parcel, the registrar shall not accept the instrument for registration unless it is approved in accordance with this Part, but

- (c) nothing in this section prevents the registration of any such instrument in existence prior to the coming into force of this Act, and
- (d) the length of time during which any such instrument has been in existence shall not be taken into account by the approving authority when considering the application for approval of the subdivision.

(2) Where a parcel of land is separated into two or more areas by a registered plan for a road or right-of-way pursuant to a plan of subdivision or by a natural boundary, the separated areas shall be deemed to be one parcel for the purposes of this Part.

DIVISION 8 - APPEALS

Board of variance

353. (1) A board of variance established pursuant to section 311 shall consist of not less than three or more than nine members, to hear and determine appeals made to it pursuant to this Part.

(2) In a city the board of variance shall be composed of persons who are not members of the council.

(3) Where no board of variance is established, a council may act as the board of variance for up to six months after the municipality is incorporated.

Appeals to a board of variance

354. (1) A person may appeal to the board of variance who

- (a) alleges that the council or a person acting for or on behalf of the council has misapplied the official community plan or zoning bylaw in a particular case, or
- (b) claims that there are practical difficulties or unnecessary hardships in the way of carrying out the plan or bylaw by reason of the exceptional narrowness, shortness, shape, topographic features or any other unspecified unusual conditions of a specified property.

(2) A person who appeals under paragraph (1)(b) is not entitled to have his appeal allowed if

- (a) the unusual condition is the result of his or the property owner's deliberate action,
- (b) the adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district, or
- (c) a relaxation of the provisions of the bylaw would be contrary to its purposes and intent and would injuriously affect the neighbouring properties.

(3) The board of variance shall not grant an appeal that would allow a change to a use that is not similar to a use that would be permissible without a variance.

(4) The board may attach such conditions to the granting of an appeal as in its opinion will preserve the purposes and intent of the official community plan and zoning bylaw.

(5) An appeal under paragraph (1)(a) may only be taken within 30 days of the misapplication that is alleged.

S.Y. 1988, c. 20, s. 18.

Procedure

355. (1) A person desiring to appeal to the board of variance shall file with the secretary of the board written notice of his intention to appeal and shall at the same time pay to the secretary such sum, not exceeding \$200, as may be fixed by bylaw.

(2) The board shall fix a day for the hearing of the appeal which shall be not later than 30 days after the date of the filing of the notice on intention to appeal.

(4) The appellant shall, not later than ten days before the day fixed for the hearing of the appeal, file with the secretary of the board all maps, plans, drawings and written material that he intends to submit in support of the appeal.

(5) The council shall, if required by the board to do so, transmit to the secretary of the board, before the day fixed for the hearing of the appeal, the original or true copies of maps, plans, drawings and written material in its possession relating to the subject matter of the appeal.

(10) Subject to subsection (12), an appeal granted by the board shall not become effective until the expiration of 35 days from the date on which the decision is made, or if conditions are affixed pursuant to subsection 354(4), until such time as the conditions have been complied with, whichever is the later.

(11) The inspector, a municipal council, the appellant or any other person may, within 20 days after the date on which a copy of the decision is received and upon written notice to the board of variance, appeal therefrom to the Yukon Municipal Board.

(12) An appeal under subsection (11) in respect of a decision of the board of variance shall have the effect of suspending the decision of the board

of variance pending the decision of the Yukon Municipal Board with respect to the decision of the board of variance.

Appeals to the Yukon Municipal Board

356. (1) The Yukon Municipal Board shall hear appeals in all cases where provisions for appeals to the board are made pursuant to this Act or by an order or regulation made pursuant to this Act.

(2) The Yukon Municipal Board shall determine all appeals submitted to it and such decisions shall be conclusive and binding on all parties.

(3) A copy of the Yukon Municipal Board's decision shall be sent to each party to the appeal and upon request to any interest person.

PART 8

BOARDS AND COMMISSIONS

DIVISION 1 - YUKON MUNICIPAL BOARD

Establishment of the board

361. The Commissioner in Executive Council shall establish a board to be known as the Yukon Municipal Board with powers, duties and functions pursuant to this Act.

Powers of the board

363. (1) For the purposes of this Act, the Yukon Municipal Board has all the powers of a board of inquiry appointed under the *Public Inquiries Act* and has the authority to hear and determine all questions of law or fact in matters assigned to the board under this or any other Act.

Additional powers

364. In addition to its powers in relation to appeals and approvals given to it under other provisions of this Act, the Yukon Municipal Board may

(a) perform such duties as may be assigned to it by the *Subdivision Act* or such duties as the Commissioner in Executive Council may delegate to it pursuant to this Act, the *Lands Act*, the *Area Development Act*, and the *Assessment and Taxation Act*.

(b) hear any appeals to it that may be provided for under the *Area Development Act* or the *Building Standards Act*.

S.Y. 1993, c. 14, s. 2;
S.Y. 1994, c. 19, s. 29.

DIVISION 2 - MUNICIPAL BOARDS AND COMMISSIONS

Municipal Planning Board

369. (1) The council may by bylaw appoint a board to be known as the municipal planning board to advise and assist the council with respect to all matters pertaining to community planning and the orderly development of the municipality.

(2) A majority of the members of the board shall be persons who are not members of the council or employees of the municipality.

Operation of the planning board

370. The board may perform such duties of a planning nature as may be referred to it by the council and do such other things as it considers necessary in connection with the planning and orderly development of the municipality.

PART 9

MISCELLANEOUS

DIVISION 1 - ADDITIONAL POWERS

Computers copyright

381. A computer data base, magnetic tape or computer program prepared for the purposes of a municipality by a consultant or data processing company upon payment of the agreed price, is the property of the municipality.

DIVISION 7 - MISCELLANEOUS

Regulations

418. The Commissioner in Executive Council may make such regulations and prescribe such forms as he deems necessary for carrying out the purposes and provisions of this Act.

Effect of old regulations, bylaws, licences, etc.

419. All orders, regulations, contracts, licences, bylaws and other documents pertaining to any municipality or local improvement district issued pursuant to any Act prior to the coming into force of this Act that are not inconsistent with the provisions of this Act shall remain in effect until such time as they expire or are expressly repealed.

The above excerpts of the *Municipal Act* are from chapter 119 of the *Republished Statutes of the Yukon, 1986-1990*, as amended by:

- S.Y. 1987, c. 29; RA 03.12.87.
- S.Y. 1988, c. 20; RA 18.05.88.
- S.Y. 1989-90, c. 16, s. 15; RA 21.11.89.
- S.Y. 1991, c. 5, s. 188; RA 29.05.91; CIF 30.09.92 (O.I.C. 1992/134).
- S.Y. 1991, c. 13; RA 29.05.91.
- S.Y. 1993, c. 14; RA 03.06.93.
- S.Y. 1994, c. 13; RA 31.05.94.
- S.Y. 1994, c. 19, ss. 27 to 29; RA 28.04.94; CIF 21.04.95 (O.I.C. 1995/72).

Subdivision Act

Excerpts from
Chapter 19, S.Y. 1994
 As amended

Interpretation

1. In this Act:

"applicant" means an owner of land or the owner's authorized agent;

"development" means the use, improvement, or subdividing of land;

"grant" has the same meaning as in the *Land Titles Act*;

"highway" has the same meaning as in the *Highways Act*;

"instrument" has the same meaning as in the *Land Titles Act*;

"land" has the same meaning as in the *Land Titles Act*;

"plan of subdivision" means a plan of survey capable of being registered in the Land Titles Office for the purpose of subdividing a parcel of land;

"planning scheme" includes a regional plan, a sub-regional plan, a district plan, a community plan, a local area plan, or land use policies and regulations made under the *Area Development Act* and the *Highways Act* or the *Lands Act*;

"subdivision" includes the adjusting or realigning an existing property line, a division of a parcel by means of a plan of subdivision, a plan of survey, a plan made pursuant to section 6 of the *Condominium Act*, an agreement or any instrument, including a caveat, transferring or creating an estate or interest in part of the parcel, or the creation of a new parcel from existing parcels of land;

Application

2. This Act applies to all land in the Yukon Territory other than

- (a) land within municipalities, or
- (b) lands that are under the control, management and administration of the Government of Canada or a crown corporation of the Government of Canada.

Subdivision of land

3. (1) Land may not be subdivided unless:

- (a) the proposed subdivision complies with this Act and the regulations and is approved in the manner prescribed in this Act and the regulations;
- (b) the land, in the opinion of the approving officer, is suited to the purpose for which the subdivision is intended and may reasonably be expected to be developed for that purpose within a reasonable time after a plan or other instrument effecting the subdivision is registered;
- (c) the proposed subdivision conforms to any existing or proposed planning scheme that affects or will affect the land or adjacent land; and
- (d) the applicant proposing the subdivision provides, if required by the approving officer, for the installation and construction at his or her own expense of all necessary highways, sidewalks, curbs, culverts, drainage ditches, utility systems, easements, or other public facilities that may be required under the regulations.

(2) Despite subsection (1), a parcel of land may not be subdivided into smaller parcels if

- (a) the parcel
 - (i) was granted on the basis of a lease or an agreement for sale a condition of which was that the lessee or purchaser was to use the land for agricultural purposes or for agricultural and other purposes; and
 - (ii) has not been divided since the grant; and
 - (iii) had not been transferred since the grant to a bona fide purchaser for value without notice of the condition in the lease or the agreement for sale before the coming into force of this subsection; or
- (b) the parcel
 - (i) was created by the division of a parcel granted on the basis of a lease or agreement for sale a condition of which was that the lessee or purchaser was to use the land for

agricultural purposes or for agricultural and other purposes; and

(ii) when this subsection came into force was titled to the person who had created the parcel by dividing the original parcel granted to him or her.

Appointment of approving officer

4. The Minister may by order appoint approving officers to review subdivision applications under this Act.

Approval of proposed subdivision

5. An applicant who proposes to subdivide land must apply to the approving officer for approval of a plan of subdivision in the manner prescribed by the regulations.

Power of approving officer

6. (1) The approving officer may approve a proposed subdivision of land, approve the proposed subdivision subject to conditions, or may refuse the proposed subdivision.

(2) The approving officer shall serve the applicant with notice of the decision personally or by certified mail.

Where approval refused

7. No subsequent unaltered application for approval of a proposed subdivision of land that provides for the same use of the land may be made by the same or any other person within 6 months after the date of the refusal.

Right of appeal

8. Where an application for approval of a proposed subdivision of land

(a) is refused for any reason other than a failure to comply with paragraph 3(1)(c) or subsection 3(2), or

(b) is approved conditionally,

the applicant may appeal to the appeal board by serving on the appeal board written notice of appeal

personally or by certified mail within 30 days of having been served with the decision.

Delay of approval

9. (1) An application for approval of a proposed subdivision of land is considered approved if a decision has not been made by an approving officer within 90 days of the submission of the application.

(2) Despite subsection (1), the approving officer may extend the time allowed for the consideration of an application with the applicant's consent.

Appeal

10. (1) If the appeal board receives a notice of appeal under section 8, the appeal board must hold a hearing, within 90 days of receiving the notice of appeal, and must

(a) ensure that reasonable notice of the hearing is given to the appellant and all persons who may be affected; and

(b) consider the appeal having regard to the purpose, scope, and intent of a planning scheme where it is in effect or being prepared and to the development and use of the land that may result from the proposed subdivision of land.

(2) At a hearing under subsection (1), the appeal board must hear the appellant and any person who has an interest in or might be affected by the subdivision of land that is the subject of the hearing.

Powers of appeal board

11. In determining an appeal, the appeal board

(a) may confirm, reverse, or vary the decision appealed from and may impose conditions that the appeal board considers proper and desirable in the circumstances; and

(b) shall render a decision by an order in writing within 60 days after the date on which the hearing is held.

Term of order

12. An order under section 11 is in force for a period of 12 months from the date on which it is issued.

Appointment of appeal board

13. The board of appeal shall be the Yukon Municipal Board appointed pursuant to the *Municipal Act*.

Approval of application for subdivision

14. If an application for a proposed subdivision of land is approved with or without conditions by an approving officer or the appeal board, the applicant shall, within 12 months after the date of approval, submit to the approving officer a plan of subdivision or an instrument drawn in conformity with the approval.

When approval void

15. If a plan of subdivision or an instrument is not submitted pursuant to section 14 within 12 months after the date of approval of the application, the approval is void.

Duty of approving officer

16. (1) If a plan of subdivision or instrument conforms with the approved application, the approving officer must approve the plan of subdivision or instrument and forward the plan of subdivision to the Commissioner. The approving officer may specify

- (a) the period of time for which the approval of the plan or instrument is effective, said period of time not being less than 60 days; and
- (b) a period of time within which the applicant must take all necessary steps to enable the Registrar of Land Titles for the land registration district in which the land is located to register the plan of subdivision or instrument.

(2) The period of time for which the plan approval is effective and within which the plan of subdivision must be registered in the Land Titles Office for the land registration district in which the land is located must not exceed 12 months unless the applicant and the approving officer agree to a further period.

Procedure

17. If a plan of subdivision does not conform with an approved application or if any inquiry or inspection of the land made on the instructions of the approving officer reveals any condition or circumstance that warrant reconsideration of the application, the

approving officer may, after giving the applicant an opportunity to be heard,

- (a) approve the plan of subdivision;
- (b) defer the approval of the plan of subdivision for a period of no more than six months to give the approving officer further opportunity to review the conditions or circumstances warranting the application's reconsideration and to determine what changes, if any, should be made in the conditions subject to which the application was approved;
- (c) refuse to approve the plan of subdivision;
- (d) alter or cancel any condition subject to which the application was approved; or
- (e) impose any additional conditions on the application that he or she considers necessary in the circumstances.

Appeal

17.1 (1) Where the approving officer in dealing with a plan of subdivision under section 17

- (a) defers the approval of a plan of subdivision,
- (b) refuses to approve a plan of subdivision,
- (c) alters or cancels any condition subject to which the application was approved; or
- (d) imposes any additional conditions on the plan of subdivision,

the applicant may appeal to the appeal board by serving on the appeal board written notice of appeal personally or by certified mail within 30 days of having been served with the decision of the approving officer.

(2) Sections 10, 11, and 12, modified to suit the case, apply to an appeal under this section.

Observance of conditions

18. If an approving officer or appeal board imposes conditions in approving the subdivision of land, the approving officer may enter into an agreement with the owner of the land with respect to the observance of the requirements or limitations and the agreement shall be deemed to be a covenant running with the land on its being registered in the Land Titles Office for the land registration district in which the land is located.

Restriction on registration of instruments

19. If the Registrar of Land Titles for the land registration district in which a parcel is located believes that an instrument

- (a) granting a lease of only part of the parcel,
- (b) charging, mortgaging, or otherwise encumbering only part of the parcel, or
- (c) providing for the sale of part of the parcel,

has the effect or may have the effect of subdividing the parcel, the Registrar may reject the instrument until it is approved in accordance with this Act and the regulations.

Highways, public utility requirements, and reserves

20. (1) Subject to any specific requirements and exemptions that may be made under this Act and the regulations, the owner of land comprising a proposed subdivision shall provide from that land, without compensation,

- (a) highways and lands for public utilities, for the purposes of providing suitable access and services to all lots in the subdivision, and
- (b) reserves,

that are required by this Act and the regulations. Ownership of the highways, public utility lands, and reserves is vested in the Commissioner.

(2) In each subdivision the reserves referred to in paragraph (1)(b) must contain the area of land, being not more than 10% of the land being subdivided, that is prescribed.

(3) Despite subsection (2), where the land to be subdivided contains swamps, gullies, ravines, or natural drainage courses or other land that is unsuitable for building sites or private uses, the approving officer may require that these areas be provided as reserves in addition to the reserves to be provided under subsection (2).

Reserves deferred or waived

21. If the provision of a reserve would serve no practical purpose or for any other reason would be unnecessary or undesirable, the approving officer may

- (a) require that the provision of a reserve in part or in full be deferred until a further subdivision is made; or

- (b) order that the provision of a reserve be waived in part or in full.

Caveat for reserves

22. If the provision of a reserve is deferred, the approving officer may lodge in the Land Titles Office for the land registration district where the affected land is situated a caveat respecting the deferred reserve against the title to the land affected.

Disposition of reserves

23. A reserve must be used by the Commissioner for the purposes of a school, a public park, recreation area, or other public use but if a reserve will not be required for any of those purposes, the Director of Lands may authorize the lease of the reserve or its sale in the manner and on the terms that the approving officer may specify.

Application of regulations or bylaws adopted after application

24. If, after an application for the subdivision of land has been submitted to the approving officer, the Government of Yukon makes a regulation under the *Area Development Act* or a municipality makes a subdivision control bylaw that would otherwise apply to the lands being subdivided, the regulations or the bylaw, as the case may be, has no effect with respect to that subdivision for a period of 12 months after the regulation or bylaw was made unless the applicant agrees in writing that it should have effect.

Power to order remedy of default

25. (1) If under this Act, or by a regulation under this Act a certain matter or thing is directed or required to be done and is not done, or a certain matter or thing is directed or required to be not done and is done by any person, the Minister or any person authorized by the Minister may order the person who is in default under the Act or regulation to remedy the default. If the person fails to remedy the default within 30 days of the day on which the order is served on him or her or mailed to the person at his or her last known address by certified mail, the Minister or any person authorized by the Minister may

- (a) take such action as the Minister sees fit to have the default remedied, and

(b) recover from the person in default the expenses with costs of action in a court of competent jurisdiction.

(2) The action taken by the Minister or by any person authorized by the Minister to have any default remedied may include the destruction, alteration or removal of any structures, development or portions thereof.

Regulations

26. (1) The Commissioner in Executive Council may make regulations

- (a) governing the location, size, and shape of lots and other areas of land to be created or to be subdivided;
- (b) prescribing the minimum size of lots into which classes of land may be subdivided;
- (c) prescribing minimum standards for the dimensions, locations, alignments and gradients of highways in a subdivision, including highways required for access to lands lying beyond or around the subdivided land;
- (d) governing the location of public utilities in a subdivision;
- (e) specifying locations where subdivisions of land intended for specific types of development or use are permitted and prohibited;
- (f) prescribing geotechnical requirements for a subdivision which must be met by an applicant;
- (g) prescribing conditions for the subdivision of lands subject to natural hazards such as flooding, erosion, landslides, or avalanches;

(h) prescribing standards for highways, sidewalks, boulevards, boulevard crossings, street lighting, or underground wiring in a subdivision;

(i) prescribing standards for a water distribution system, a fire hydrant system, a sewage collection system, a drainage collection system, or a drainage disposal system in a subdivision;

(j) governing the procedure to be followed by applicants for subdivision approval and the persons who may apply;

(k) prescribing the fees to be paid by persons applying to the approving officer for subdivision approval or on appeal to the board of appeal;

(l) providing for the imposition of development cost charges to be paid by a person applying to subdivide land;

(m) governing proceedings before the appeal board;

(n) generally, for the purpose of carrying out the provisions of this Act.

(2) Unless the contrary is expressly declared in a planning scheme, the subdivision regulations operate subject to the planning scheme.

Land claims or self-government agreement prevails

30. In the event of conflict in operation between a provision of this Act and a provision of a land claims agreement or self-government then, to the extent of the conflict, the provision of the land claims agreement or self-government agreement prevails and the provision of this Act is inoperative.

Coming into Force

Subdivision Act

Chapter 19, S.Y. 1994; RA 28.04.94

CIF 21.04.95 except s. 3(2), (O.I.C. 1995/72);
s. 3(2) CIF 28.04.94.

The above excerpts of the *Subdivision Act* are from chapter 19 of the *Statutes of the Yukon, 1994*.

Tenants in Common Act

Excerpts from
Chapter 168, R.S.Y. 1986-1990
As amended

Owners to hold as tenants in common unless other intention

1. Where by letters patent, transfer, conveyance, assurance, will or other assignment, land or an interest in land is granted, transferred, conveyed, assigned or devised to two or more persons other than executors

or trustees in fee simple or for any less estate, legal or equitable, such persons shall take as tenants in common and not as joint tenants unless an intention sufficiently appears on the face of such letters patent, transfer, conveyance, assurance, will or other assignment that they are to take such land or interest in land as joint tenants.

The above excerpts of the *Tenants in Common Act* are from chapter 168 of the *Republished Statutes of the Yukon, 1986-1990*.

REGULATIONS OF THE YUKON

Introduction

Contents

This Chapter contains excerpts or summaries of regulations made under the authority of an Act of the Legislature of the Yukon Territory. The excerpts come from the *Regulations of the Yukon*.

The *Regulations of the Yukon* are a consolidation and revision of regulations in force. The publication is updated on a regular basis and reflects the law as new regulations and amendments are enacted. New regulations and amendments are published in the *Yukon Gazette* Part II prior to being incorporated into the *Regulations of the Yukon*.

Caution

The excerpts in this Part of the Manual have been prepared for convenience of reference only and have no official sanction. Reference to excerpts is at the user's discretion. The Legal Surveys Division, Department of Natural Resources, assumes no responsibility for any reproduction of the excerpts.

For all purposes of interpreting and applying the law, users should consult the regulations as proclaimed by Order in Council which are published in:

- (a) the *Regulations of the Yukon*; or
- (b) the *Yukon Gazette* Part II.

The above mentioned publications are available in most public libraries. They may also be purchased from the Inquiry Centre, Yukon Government Administration Building, Whitehorse, Yukon, or by writing: Queen's Printer

subscriptions, Box 2703, Whitehorse, Yukon Y1A 2C6.

Abbreviations

The following abbreviations are used in this Part of the Manual:

| <u>Abbreviation</u> | <u>Definition</u> |
|---------------------|-------------------|
| c. | chapter |
| CIF | came in force |
| ex. | except |
| O.I.C. | Order in Council |
| s. | section |
| Sch. | Schedule |
| ss. | sections |

Organization of Regulations

The regulations are compiled in alphabetical order under the Act under which they were made. Each regulation is documented similarly to the regulations in Chapter A3. See Chapter A3 (Organization of Regulations) for a detailed explanation.

In force dates

A regulation comes into force on the day it is filed with the registrar of regulations unless there is a provision specifying that the regulation, or parts thereof, comes into force at a later date. In this Chapter, references to an enactment contain the coming into force date inside parentheses.

For example, a reference such as :

- (a) ■ O.I.C. 1993/86 (19.07.93).

means that the regulation registered under O.I.C. number 1993/86 came into force on 19 July, 1993; and

(b) ■ O.I.C. 1979/79 (01.04.79 ex. s. 29; s. 29 CIF 01.08.79).

means that the regulation registered under O.I.C. number 1979/79 came into force on 1 April, 1979 except for section 29. Section 29 came into force on 1 August 1979.

How current are the excerpts?

This Chapter contains only regulations which are in force on the applicable date indicated in the Table of Consolidation preceding Part A of this Manual. All excerpts are updated to that date.

Development Area Regulations (Area Development Act)

Summary only

Development area regulations are made in accordance with the provisions of section 3 of the *Area Development Act*. A development area may be designated in any part of the Yukon Territory where the Commissioner in Executive Council considers that it is necessary in the public interest to regulate the orderly development of that area.

Development area regulations may provide for the orderly development of land within a specified area, respecting (but not limited to) :

- (a) the zoning of the area, including the allocation of land in the area for agricultural, residential, business, industrial, educational, public or other purposes;
- (b) the regulation or prohibition of the erection and alteration of buildings;

- (c) streets, roads, lanes, sidewalks and parks.

A non-exhaustive list of existing development area regulations is included in Table A7-1. The development areas are compiled in alphabetical order. Each development area regulation refers to the Order-in-Council establishing it together with the date the regulation came into force. If the original Order has been amended, all amendments are listed.

It may be necessary to read a development area regulation to determine if it affects the lands dealt with in a survey. Excerpts of these regulations are not provided in this manual. Copies of these Regulations are available from the Inquiry Centre, Yukon Government Administration Building, Whitehorse, Yukon. The regulations are also published in Part II of the *Yukon Gazette*.

TABLE A7-1

DEVELOPMENT AREA REGULATIONS

| Development Area Regulation | O.I.C. Number | CIF Date |
|--|---------------|----------|
| Agricultural Development Areas Regulations | 1989/ 79 | 16.05.89 |
| | 1992/58 | 22.04.92 |
| | 1995/175 | 13.10.95 |
| | 1996/54 | 29.04.96 |
| Bear Creek Development Area Regulations | 1983/132 | 30.06.83 |
| | 1989/136 | 18.08.89 |
| Callison Industrial Development Area Regulations | 1980/ 45 | 01.02.80 |
| | 1980/142 | 02.06.80 |
| | 1982/270 | 27.08.82 |
| | 1988/146 | 29.08.88 |
| | 1991/124 | 26.06.91 |

| Development Area Regulation | O.I.C. Number | CIF Date |
|---|---------------|----------|
| Carcross General Development Area Regulations | 1976/231 | 02.09.76 |
| | 1984/334 | 10.12.84 |
| | 1985/175 | 13.08.85 |
| | 1986/ 83 | 08.05.86 |
| | 1988/ 42 | 14.03.88 |
| | 1988/154 | 12.09.88 |
| | 1990/ 30 | 27.02.90 |
| | 1990/ 34 | 05.03.90 |
| | 1992/ 48 | 03.04.92 |
| | 1995/166 | 25.09.95 |
| | 1996/124 | 16.08.96 |
| Carmacks Development Area Regulations | 1976/232 | 02.09.76 |
| | 1978/276 | 22.11.78 |
| | 1982/ 23 | 11.02.82 |
| | 1982/ 24 | 11.02.82 |
| | 1982/ 25 | 11.02.82 |
| | 1983/ 13 | 28.01.83 |
| Dempster Highway Development Area Regulations | 1979/ 64 | 18.04.79 |
| | 1979/102 | 15.06.79 |
| | 1984/289 | 19.10.84 |
| | 1990/164 | 27.11.90 |
| | 1991/ 97 | 29.04.91 |
| | 1992/ 54 | 14.04.92 |
| Destruction Bay Development Area Regulations | 1980/257 | 29.09.80 |
| | 1991/165 | 13.09.91 |
| Golden Horn Development Area Regulations | 1989/ 67 | 14.04.89 |
| | 1990/ 74 | 07.05.90 |
| | 1993/179 | 07.12.93 |
| | 1994/222 | 20.12.94 |
| Grizzly Valley Area Development Regulations | 1996/135 | 03.09.96 |
| Haines Junction Development Area Regulations | 1977/ 88 | 20.05.77 |
| | 1982/ 27 | 11.02.82 |
| | 1985/207 | 20.09.85 |
| | 1988/ 58 | 05.04.88 |
| | 1988/ 59 | 05.04.88 |
| Hotsprings Road Area Development Regulations | 1996/136 | 03.09.96 |
| Klondike Valley Area Development Regulations | 1992/ 29 | 10.02.92 |
| Mayo Development Area Regulations | 1976/230 | 02.09.76 |
| | 1980/242 | 02.09.80 |
| | 1982/ 60 | 01.04.82 |
| M'Clintock Place Area Development Regulations | 1996/145 | 19.09.96 |
| Mendenhall Development Area Regulations | 1990/ 94 | 27.06.90 |
| Pine Lake Recreational Area | 1990/ 29 | 27.02.90 |
| Robinson Area Development Regulations | 1988/118 | 24.06.88 |
| Ross River Development Area Regulations | 1978/139 | 27.06.78 |
| | 1979/125 | 29.06.79 |
| | 1983/ 60 | 06.04.83 |
| | 1987/119 | 01.06.87 |
| | 1988/117 | 24.06.88 |
| | 1989/137 | 18.08.89 |
| | 1995/199 | 05.12.95 |
| Teslin General Development Area Regulations | 1976/229 | 02.09.76 |
| | 1979/165 | 06.09.79 |
| | 1980/ 47 | 08.02.80 |
| Watson Lake Development Area Regulations | 1983/133 | 30.06.83 |
| West Dawson Development Area Regulations | 1990/118 | 08.08.90 |

| Development Area Regulation | O.I.C. Number | CIF Date |
|---|---------------|----------|
| Whitehorse Periphery Development Area Regulations | 1978/110 | 26.05.78 |
| | 1979/ 26 | 16.02.79 |
| | 1980/263 | 29.09.80 |
| | 1981/268 | 18.11.81 |
| | 1985/176 | 13.08.85 |
| | 1987/158 | 04.09.87 |
| | 1988/115 | 24.06.88 |
| | 1989/ 67 | 14.04.89 |
| | 1989/187 | 20.12.89 |
| | 1990/ 35 | 05.03.90 |
| | 1992/ 05 | 16.01.92 |
| | 1993/183 | 21.12.93 |
| | 1995/ 19 | 30.01.95 |
| | 1995/122 | 28.07.95 |
| | 1995/137 | 28.07.95 |
| | 1996/134 | 03.09.96 |

Highways Regulations (Highways Act)

Excerpts from
O.I.C. 1979/079
As amended

REGULATIONS

1. These Regulations are made pursuant to the Highways Act.

2. These Regulations may be cited as the Highways Regulations.

PART I

HIGHWAYS

3. The construction of all highways, except for Tote Trails, shall conform with the Geometric Design Standards for Canadian Roads and Streets, Roads and Transportation Association of Canada or a modification thereof acceptable to the Director of Highways and Public Works.

(a) Classifications:

- I. **Rural Arterial Undivided - 90 Kilometres per hour**
Highway #1, Width of R.O.W., 91.44 metres
Highway #2, Width of R.O.W., 60.00 metres
Highway #3, Width of R.O.W., 91.44 metres
Faro Access Road, Width of R.O.W., 60.00 metres
Whitehorse South Access Road, Width of R.O.W., 60.00 metres
- II. **Rural Collector Undivided - 90 Kilometres per hour**
Highway #4, Width of R.O.W., 60.00 metres
Highway #5, Width of R.O.W., 60.00 metres
Highway #6, Width of R.O.W., 60.00 metres
Highway #7, Width of R.O.W., 60.00 metres
Highway #8, Width of R.O.W., 60.00 metres
Highway #9, Width of R.O.W., 60.00 metres
Highway #10, Width of R.O.W., 60.00 metres
Highway #11, Width of R.O.W., 60.00 metres
Clinton Creek Road, Width of R.O.W., 60.00 metres
Faro - Anvil Road, Width of R.O.W., 60.00 metres
- III. **Urban arterial Undivided - 65 Kilometres per hour**
Two Mile Hill Road, Width of R.O.W., 60.96 metres

IV. Rural Local Undivided - 50 to 80 Kilometres per hour

All other designated highways described in Paragraphs 4, 5 and 6 and not described above.

NOTE

Paragraphs 4, 5, and 6 repealed by O.I.C. 1983/78.

V. Tote Trails

All highways not included in Paragraphs I, II, III and IV. Right-of-way 60.00 metres and built to the minimum standard that in the opinion of the Director of Highways and Public Works is compatible with the purpose intended.

10. (1) Pursuant to Part II Section 12(1) of the Act, the following are designated as controlled access Highways:

(a) Highway # 1

- I. Watson Lake -- between the boundaries of the Watson Lake Local Improvement District.
- II. Upper Liard -- between points 1000 metres easterly and 1500 metres westerly of the Upper Liard Bridge.
- III. Swift River -- 1000 metres each side of the Department of Highways and Public Works Maintenance Camp garage building.
- IV. Cassiar Road Junction -- 1000 metres each side of the junction.
- V. Teslin -- between the boundaries of the Teslin Local Improvement District.
- VI. Atlin Road Junction -- 1000 metres each side of the junction.
- VII. Klondike Highway Junction (To Carcross) -- 1000 metres easterly, and westerly to the boundary of the City of Whitehorse.
- VIII. Whitehorse -- between the boundaries of the City of Whitehorse.
- IX. Haines Junction -- between the boundaries of the Haines Junction Local Improvement District.
- X. Destruction Bay -- 2000 metres each side of the Department of Highways and Public Works Maintenance Camp garage building.
- XI. Burwash -- 1000 metres each side of the junction of the Burwash access road.
- XII. Beaver Creek -- between the Beaver Creek bridge and a point 4000 metres north westerly of the

Beaver Creek Highway Maintenance Camp garage building.

(b) Highway #2

- I. Carcross -- 3000 metres northerly of Nares Lake Bridge.
- II. Junction with Alaska Highway -- 2000 metres southerly.
- III. Whitehorse -- between the junction of Highway #1 and the boundary of the City of Whitehorse.
- IV. Carmacks -- between points 3700 metres southerly and 3700 metres northerly of the Carmacks Department of Highways and Public Works maintenance garage building.
- V. Pelly Crossing -- between points 2000 metres southerly and 1000 metres northerly of the Pelly River Bridge.
- VI. Stewart Crossing -- between the Stewart River bridge and a point 2000 metres southerly of the bridge.

VII. Dempster Junction -- 2000 metres each side of the junction.

VIII. Dawson -- between the Klondike River bridge (Ogilvie Bridge) and a point 2000 metres easterly of the bridge. From the Klondike River bridge westerly through Dawson to a point 2000 metres northerly of the west ferry landing.

(c) Highway #11

- I. Mayo -- between the Mayo River bridge and a point 5000 metres westerly and northerly of the bridge.
- II. Mayo -- between 4th Avenue in Mayo and the intersection of Highway #11

(d) Highway #5

From the junction with Highway #2 to the Yukon-N.W.T. boundary.

The *Highways Regulations* are made pursuant to section 44 of the *Highways Act*. The excerpts that appear above are from Order in Council number 1979/079 (01.04.79 ex. s. 29; s. 29 CIF 01.08.79) as amended by:

- O.I.C. 1983/78, (18.04.83).
- O.I.C. 1984/158, (18.06.84).
- O.I.C. 1985/90, (19.04.85).
- O.I.C. 1986/94, (05.06.86).
- O.I.C. 1987/100, (14.05.87).
- O.I.C. 1991/143, (23.07.91).

Lands Regulations*(Lands Act)*

Excerpts from
O.I.C. 1983/192 (15.09.83)
As amended

**REGULATIONS GOVERNING THE
ADMINISTRATION AND DISPOSAL
OF YUKON LANDS***Short title*

1. These Regulations may be cited as the *Lands Regulations*.

2. In these regulations

(1) "Act" means the *Land Act*;

(2) "survey" means a legal survey by a Canada Lands Surveyor in accordance with instructions from the Surveyor General of Canada.

"development cost" means the acquisition costs, planning costs, site evaluation costs, engineering costs, legal survey costs, road construction costs, utility service installation costs, marketing costs, administration fees, interest and carrying charges incurred by the Government of Yukon with respect to a subdivision.

"interest" means any interest paid by the Government of Yukon on money borrowed by Yukon for the acquisition or development of lots and parcels in a subdivision.

"market value" means the value of a lot or parcel as determined from time to time by an appraiser from the Government of Yukon.

O.I.C. 1986/21.

APPLICATION

3. These Regulations apply only to "Yukon Lands."

APPLICATION FOR DISPOSITION OF LANDS

4. Every application for a disposition of lands shall

(1) be made in a form designated by the Lands Office.

(2) give a full legal survey description, or if unsurveyed land, a metes and bounds description tied to a survey monument or conspicuous physical feature.

SALE OF LAND

5. The Commissioner shall maintain

(1) a register or list of all lands which have been surveyed, appraised and are available for sale, and

(2) a register of record of all assignments, encumbrances, agreements for sale, leases, and similar documents affecting Yukon lands, and

(3) a register of all such land which is withheld from disposal.

GENERAL PROVISIONS

7. An officer specially authorized by the Commissioner may exercise any of the powers of the Commissioner set out in these regulations as agent of the Commissioner except the granting of a Notification or Transfer of Title.

8. Title or Notification of Title shall not be issued until the purchase price of the lot has been paid in full and, any covenants or conditions contained in the agreement have been performed or complied with.

11. The applicant will not be assessed damages in respect of any removal of trees, etc., or other disturbances of property but permanent improvements

made by the applicant on the property will become the property of the Commissioner.

12. The Commissioner may enter and take possession, within ninety days of the mailing of the notice, referred to in section 23 of the Act, of any lot where

- (a) the applicant has failed, notwithstanding the notice, to comply with the covenants, terms or conditions set out in the agreement;
- (b) the applicant has abandoned the lot, or
- (c) the applicant has failed, notwithstanding the notice, to carry out or observe any condition of the agreement or has failed to remedy any breach or has otherwise failed to comply with the terms of the notice.

13. It shall be sufficient for the purpose of exercising his right of re-entry or repossession for the Commissioner to send a notice to the applicant by certified mail to the address for service in the agreement, in which case the power of re-entry or repossession shall be deemed to have been exercised on the fifteenth day after the mailing of the notice or to post a notice of re-entry or repossession on the lot, in which case the re-entry or repossession shall be deemed to have occurred at the time of the posting of the notice or re-entry or repossession.

14. It shall not be necessary in order to re-enter or repossess the lot for the Commissioner to take any action at law.

15. Any lot which reverts to the Commissioner pursuant to these regulations or in respect of which the Commissioner has exercised his rights of re-entry or repossession, may be resold by the Commissioner in accordance with these regulations.

20. Every agreement for sale or grant of land, other than surveyed lands in a residential, commercial or industrial subdivision, shall be deemed to contain a reservation of such part or parts as may be appropriated by the Commissioner, for the purpose of a public road.

21. Before making any sale or lease or other kind of disposition of land, the Commissioner will by order, declare which of the following classes the land belongs to:

- 1) residential
- 2) country residential
- 3) rural residential
- 4) recreational residential
- 5) industrial
- 6) commercial
- 7) agricultural
- 8) quarrying
- 9) special
- 10) institutional, or
- 12) utility easements.

O.I.C. 1991/90.

RESIDENTIAL CLASS

25. Lots and parcels in the residential class shall be sold under a five (5) year agreement for sale.

30. An applicant may act through an agent in registering for a sale and in selecting a lot, but may not act through an agent in making the formal documentation required pursuant to these regulations except with the prior written consent of the officer in charge of the sale.

34. Notwithstanding Section 24 a qualified individual may select two contiguous residential lots for the construction of one residential dwelling and any such sale shall be subject to such conditions as may be imposed in respect of the sale by the Commissioner and such conditions shall include a condition:

(1) that the applicant shall make arrangements for a resurvey of the two lots or parts thereof into one single lot and pay the costs thereof;

(2) that the resurvey be registered as such in the Land Titles Office together with a covenant forbidding resubdivision;

35. An applicant may be issued title for a single family residential lot when the purchase price and any accrued interest are paid in full.

36. Notwithstanding Section 8, where the applicant satisfied the Commissioner that, for the purpose of obtaining mortgage finance, he requires title to the land, the Commissioner may issue Notification of Title

in the name of the applicant to the mortgagee in trust for the purpose of enabling a mortgage to be registered in the Land Registry.

COUNTRY RESIDENTIAL CLASS

41. Lots and parcels in the country residential class shall be sold under a five (5) year agreement for sale.

44. An applicant may act through an agent in registering for a sale and in selecting a lot, but may not act through an agent in making formal documentation required pursuant to these regulations except with the prior written consent of the officer in charge of the sale.

45. (1) An agent may act for one individual or group in any sale, but may not act for themselves as well.

(2) No individual, developer, building contractor or realtor may hold more than one agreement for sale for a lot or parcel in the country residential class.

46. An applicant may be issued title for a country residential lot when the purchase price and any accrued interest are paid in full.

47. Notwithstanding Section 8, where the applicant satisfied the Commissioner that, for the purpose of obtaining mortgage finance, he requires title to the land, the Commissioner may issue Notification of Title in the name of the applicant to the mortgagee in trust for the purpose of enabling a mortgage to be registered in the Land Registry.

RURAL RESIDENTIAL CLASS

New lot sales

48. Rural residential land shall be sold under a ten (10) year agreement for sale.

57. Notwithstanding the provisions of Section 40 to 45 applicants may elect to obtain title at any time by:

(1) paying the development cost and interest accrued thereon, and

(2) paying out the unearned portion of the difference between the market value of the lot, as established at the time the agreement for sale was entered into, and the development cost, the unearned portion being derived based on the number of years the agreement is in effect where for every year the agreement is in effect the applicant earns a one-tenth equitable interest in the established market value.

(3) Notwithstanding section 8, where the development cost and the interest accrued thereon have been paid in full, and the applicant satisfies the Commissioner that, for the purpose of obtaining mortgage financing in respect of the purchase or improvement of the land, he requires title to the land, the Commissioner may issue Notification of Title to the applicant upon the trust conditions that:

(a) the applicant grants to the Commissioner a registerable encumbrance charging the land with performance of the applicant's obligations in respect of the unearned portion of market value, and

(b) the said encumbrance is registered in the Land Titles Office as a charge on the land that is subject only to the mortgage that was the reason for which the Notification was issued.

58. No individual, developer, building contractor or realtor may hold more than one agreement for sale for a lot or parcel in the rural residential class.

LOT ENLARGEMENT

61. Where an individual with a lot or parcel leased from the Commissioner before the coming into force of these regulations, or a lot he is purchasing under an agreement for sale made with the Commissioner before the coming into force of these regulations, or a lot for which he has title wants to enlarge the lot by purchasing vacant Yukon lands, the Commissioner may sell such lands:

(1) under a three (3) year agreement for sale, at and for \$1250 per hectare, or

(2) under a ten (10) year agreement for sale in which the sale price is based on market value and:

i) the agreement holder is responsible for the cost of legal survey,

62. Where an individual with a lot or parcel leased from the Commissioner or a lot he is purchasing under an

agreement for sale with the Commissioner wishes to acquire adjoining lands in excess of that held under a valid and subsisting lease or agreement, the transaction shall be deemed to be a lot enlargement as provided for in Section 51.

63. Any such sale under Section 51 shall be subject to such conditions as are imposed in respect of the sale by the Commissioner and such conditions shall include a condition:

- (a) that the applicant shall make arrangements for a resurvey of the original lot and newly acquired land into one single lot and pay the costs thereof,
- (b) that the resurvey be registered as such in the Land Titles Office together with a covenant forbidding resubdivision,
- (c) payment of the purchased price and accrued interest in full prior to the notification or transfer.

AGRICULTURAL CLASS

Sale of agricultural lands

72. (1) The Minister may sell agricultural lands to an eligible applicant under a five year Agreement for Sale.

Land Pricing

75. (4) The successful applicant for an Agreement for Sale for agricultural land shall arrange and pay for a legal survey of the parcel of land applied for before the execution of the Agreement for Sale. The cost of the legal survey is a development cost which may be specified as a cost used to offset the cost of purchasing the land under the agricultural development agreement.

O.I.C. 1992/90.

The *Lands Regulations* are made pursuant to section 31 of the *Lands Act*. The excerpts that appear above are from chapter Order in Council number 1983/192 (15.09.83) as amended by:

- O.I.C. 1985/206, (20.09.85).
- O.I.C. 1986/21, (28.01.86).
- O.I.C. 1987/117, (01.06.87).
- O.I.C. 1992/90, (25.06.92).

Land Titles Plans Regulations*(Land Titles Act)*

Excerpts from
O.I.C. 1993/86 (19.07.93)
As amended

**REGULATIONS RESPECTING PLANS OF
SUBDIVISIONS OF PROPERTY REGISTERED IN A
LAND TITLES OFFICE IN THE NAME OF A PERSON
OTHER THAN HER MAJESTY***Short Title*

1. These Regulations may be cited as the *Land Titles Plans Regulations*.

Interpretation

2. In these Regulations, "Commissioner" means
(a) in the case of land situated in the Yukon Territory, the Commissioner of the Yukon Territory;
and

Registration of Plans

3. Before a plan of a subdivision of land registered in the name of any person or persons other than Her Majesty is prepared for filing or registration in a land titles office, the registered owner shall submit to the Commissioner a sketch plan in triplicate showing the scheme of the subdivision and such sketch plan shall show proposed dimensions of all lots, streets and lanes.

4. (1) The Commissioner may require the sketch plan to be amended or may approve the sketch plan.

(2) Upon the approval of the sketch plan, one copy of the sketch plan shall be sent to the registered owner and one copy to the Chief of the Mining and Lands Division of the Department of Indian Affairs and Northern Development.

5. Before a plan of a subdivision of land registered in the name of any person or persons other than Her Majesty is filed or registered in a land titles office, the plan and the field notes of the Dominion Land Surveyor who made the survey and plan shall be submitted to the Commissioner for approval.

6. Before giving his approval to any plan of survey, the Commissioner shall submit the plan and field notes to the Surveyor General for examination.

7. The Surveyor General shall examine the plan and field notes and advise the Commissioner whether the plan and survey have been carried out in accordance with both the practice prescribed for Dominion Land Surveyors and the approved sketch plan.

8. (1) Where the plan and survey have been made in accordance with the practice prescribed for Dominion Land Surveyors and the approved sketch plan, the Commissioner may approve the plan.

(2) Where the plan and survey have not been made in accordance with the practice prescribed for Dominion Land Surveyors and the approved sketch plan, the Surveyor General shall require the survey and plan thereof to be corrected by the Dominion Land Surveyor who made the survey and plan before advising the Commissioner that approval may be given to such plan.

9. No plan of any subdivision shall be filed or registered in the land titles office unless the Commissioner has approved and signed the plan.

The *Land Titles Plans Regulations* are made pursuant to section 189 of the *Land Titles Act*. The excerpts that appear above are from chapter 1018 of the *Consolidated Regulations of Canada* as adopted by Order in Council number 1993/86 (19/07/93).

Approving authority for subdivisions within municipalities*(Municipal Act)***Summary only**

Pursuant to section 328 of the *Municipal Act*, the Commissioner in Executive Council may declare that:

- (a) an approving officer appointed under the *Subdivision Act*, or
- (b) the council of a municipality (city, town or village),

shall be the approving authority for subdivisions within the municipality.

A municipal council must adopt a subdivision control bylaw, approved by the Executive Council Member responsible for the *Municipal Act*, before it can be made an approving authority.

To date, the councils of :

- (a) the Town of the City of Dawson [(O.I.C. 1995/77 (08.05.95)], and
- (b) the City of Whitehorse [(O.I.C. 1988/43 21.03.88)]

have been made approving authorities in accordance with the provisions of the *Municipal Act*. In all other municipalities, the Inspector of Municipalities is approving authority for subdivisions [(O.I.C. 1984/283 05.11.84)].

Orders Respecting Municipal Corporations and their Boundaries (*Municipal Act*)

Summary only

In the Yukon, incorporated municipalities may adopt various by-laws not inconsistent with the *Municipal Act*, including zoning by-laws. Such by-laws are applicable only within the municipality's boundaries.

Generally, municipal corporations are established by Order issued under the authority of :

(a) section 8 of the *Municipal Act* for municipalities established as a City, Town or Village; or

(b) section 19 of the *Municipal Act* for municipalities established as a Hamlet.

Not all municipal corporations were created in accordance with the provisions of section 8 of the *Municipal Act*. The Town of City of Dawson, the City of Whitehorse and the Town of Faro were continued as municipalities with the boundaries prescribed by the Commissioner in Executive Council under subsections 6(3), (4) and (5) of the *Municipal Act*, respectively.

Every Order establishing a municipality specifies the name, boundaries and class of the municipality. The boundaries may be altered by order issued under the authority of :

(a) section 16 of the *Municipal Act* for a municipality established as a City, Town or Village; or

(b) section 30 of the *Municipal Act* for a municipality established as a Hamlet.

Table A7-2 contains a list of municipal corporations. The municipalities are compiled in alphabetical order. Each municipal corporation refers to the order establishing it together with the date the order came into force. References to any amendment are also included.

It may be necessary to read an order describing the boundaries of a municipality to determine if the lands dealt with in a survey are subject to the municipality's by-laws. Excerpts of these orders are not provided in this manual. Copies of the Orders-in-Council listed hereunder are available from the municipalities or from the Inquiry Centre, Yukon Government Administration Building, Whitehorse, Yukon. The regulations are also published in Part II of the *Yukon Gazette*.

TABLE A7-2

ORDERS ESTABLISHING MUNICIPALITIES AND HAMLETS, AND DEFINING THEIR BOUNDARIES

| Official name of Municipal Corporation | O.I.C. Number | CIF Date |
|---|--|--|
| City of Whitehorse – Continued as a municipality by R.S.Y. 1986, c. 119, s. 6(4). Boundaries redefined in Boundaries amended in | 1984/022 1987/17 | 16.01.84 16.01.87 |
| The Hamlet of Mount Lorne – Established by The Hamlet of Ibex Valley – Established by | 1990/159 1990/160 | 07.12.90 07.12.90 |
| The Town of City of Dawson – Continued as a municipality by R.S.Y. 1986, c. 119, s. 6(3). Boundaries redefined in The Town of Watson Lake – Established by Boundaries redefined in The Town of Faro – Continued as a municipality by R.S.Y. 1986, c. 119, s. 6(5). Boundaries redefined in | 1993/193 1984/68 1987/347 1972/213 1984/22 | 01.01.94 01.04.84 01.01.85 01.06.72 16.01.84 |
| The Village of Carmacks – Established by The Village of Haines Junction – Established by The Village of Mayo – Established by The Village of Teslin – Established by | 1984/309 1984/272 1984/145 1984/219 | 01.11.84 01.10.84 01.06.84 01.08.84 |

Subdivision Regulations*(Subdivision Act)*

Excerpts from
O.I.C. 1995/73 (21.04.95)
As Amended

Part I*Sketch plan***ADMINISTRATION***Definitions*

1. In these regulations,

"approving officer" means the Deputy Minister of Community and Transportation Services or the Assistant Deputy Minister of the Municipal and Community Affairs Division;

"taxes" has the same meaning as in the *Assessment and Taxation Act*.

Application for subdivision approval

2. An application for subdivision approval shall be submitted to the approving officer in writing and shall contain:

- (a) the name, address and telephone number of the owner;
- (b) the legal description of the land proposed to be subdivided;
- (c) any reservations or exceptions contained in the original grant of the land from the crown, and any other known interests including caveats;
- (d) existing and proposed use of the subject land;
- (e) the existing and proposed zoning of the subject land;
- (f) a certified true copy of the instrument creating the owner's interest in the land;
- (g) any known historical, heritage, or wildlife habitat features;
- (h) a declaration by the applicant that the information contained within is correct to the best of his/her knowledge.

3. An application for subdivision approval shall include as many copies of a sketch plan as the approving officer requires, but not less than three copies of the sketch plan, and shall include:

- (a) the boundary of the land to be subdivided;
- (b) the size and shape of the lot(s) to be created by the proposed subdivision;
- (c) the location of any existing buildings or structures;
- (d) the location of any existing and proposed utilities, where applicable;
- (e) the location and description of any significant physical features of the land, such as water bodies, steep slopes, drainage courses, marsh lands;
- (f) any known historical, heritage, or wildlife habitat areas, specified in section 2(g);
- (g) geotechnical information relevant to the intended use;
- (h) the location of existing and proposed roads;
- (i) the location of proposed walkways, drainage course, and easements, if applicable;
- (j) land to be reserved for public use;
- (k) a key plan showing contiguous parcels;
- (l) any other information which the Approving officer may require.

When application filed

4. An application will not be considered as received for review by the approving officer until the applicant has provided all the information required under sections 2 and 3.

Fees for application for subdivision approval

5. (1) The fee for filing of an application for subdivision is \$100.00 and is non-refundable.

(2) Where the application is approved, the applicant is required to pay \$100.00 for each lot approved other than for those parcels reserved for public use, in addition to the filing fee but the total application fee shall not exceed \$1,100.00.

Procedure

6. Upon receipt of a completed application, the approving officer shall

- (a) acknowledge receipt of the application for subdivision in writing;
- (b) refer the application to any department or agency of the government, including any municipal corporation or other corporation, board, commission or committee established under any Act, with land related interests for review;
- (c) after the review of the application under paragraph 6(b), make a decision to approve the proposed subdivision, approve the proposed subdivision subject to conditions, or refuse the proposed subdivision.

Conditional approval

7. If the approving officer approves an application for subdivision conditionally, the approving officer may require the applicant to enter into a development agreement outlining the terms and conditions of the subdivision approval.

Transition-approval prior to Subdivision Act

8. Applications for subdivision that were approved before the coming into force of the *Subdivision Act* will remain valid for a period of 24 months from the coming into force of the Act.

9. Where an approval of an application for subdivision referred to in section 8 has lapsed, a new application for subdivision must be submitted.

Minimum lot size

10. (1) Where a subdivision of land in a rural area is subject to a planning scheme which prescribes a minimum lot size, the minimum lot size in the subdivision shall be the size prescribed in the planning scheme.

(2) Where a planning scheme does not prescribe a minimum lot size, or where a subdivision of land in a rural area is not subject to a planning scheme, the minimum lot size in the subdivision shall be 3 hectares.

(3) Despite subsections (1) and (2), the approving officer may permit lots within a subdivision to be smaller than the prescribed minimum lot size where the subdivision results from a boundary adjustment which creates no additional lots or where the lot is to be used for a burial plot, for a cemetery, for a public utility, for community recreation, or for public use facilities. The approving officer may also permit a lot to be smaller than the prescribed lot size where the land is to be used as a recreational cottage lot or where the land is located within the unincorporated communities of:

- (a) Beaver Creek,
- (b) Burwash Landing,
- (c) Destruction Bay,
- (d) Keno City,
- (e) Old Crow,
- (f) Pelly Crossing,
- (g) Stewart Crossing,
- (h) Upper Liard,
- (i) Marsh Lake,
- (j) Tagish.

Tax arrears

11. Any taxes due and owing, must be paid on the land proposed to be subdivided prior to approval of a subdivision.

Application and fees for appeal process

12. A notice of appeal shall be submitted in writing and be accompanied by a non-refundable fee of \$100.00 and must state the proposed grounds for appeal of the decision of the approving officer.

Appeal board

13. The appeal board, in determining an appeal pursuant to the *Act*, shall review the decision of the approving officer to determine if it was made in accordance with:

(a) the *Subdivision Act* and regulations;

(b) technical requirements established by any other enactment of the legislature or any standards document;

(c) the requirements of natural justice applicable to the decision; and

(d) the public interest.

The *Subdivision Regulations* are made pursuant to section 26 of the *Subdivision Act*. The excerpts that appear above are from Order in Council number 1995/73 (21/04/95).

Interdepartmental Agreement re Description of Canada Lands, 1955 ¹

An Agreement between

The Surveyor General of Canada Lands,
Department of Mines and Technical Surveys

and

The Department of Northern Affairs and National Resources, and
The Department of Citizenship and Immigration

Rules Respecting Surveys, Plans and Description of Lands when dealing with specific classes of transactions of public lands

1. For the purposes of grant by Her Majesty in right of Canada of title (in fee simple), of a lease of more than ten years duration or of transfer of administration, management and control from one department of the Government of Canada to another, or to a provincial government, the description of the lands involved shall be based upon an official plan or plans, as provided by the *Canada Lands Surveys Act*, (Section 43,(4)) ² and each parcel of land so disposed of, other than a legal subdivision, shall have been sufficiently defined by monuments as to permit identification on the ground;

provided that in cases of transfer of administration, management and control of lands from one Department of the Government of Canada to another, boundary monuments will not be necessary when the Departments concerned agree thereon. ³

2. Notwithstanding Section 1 heretofore, but for the same purposes as provided therein, any parcel or lot of land shown upon an official plan (except a legal subdivision) may be divided into not more than two portions (exclusive of roads and lanes) by mean of a metes and bounds or equivalent description, or by reference to an explanatory plan approved by and held in the custody of the Surveyor General.

1. The above Agreement was approved by the administering Departments in February 1955. The Agreement provides for rules respecting surveys, plans and description of lands when dealing with specific classes of transactions of public lands administered by the parties to the agreement.

The Department of Northern Affairs and National Resources administered Territorial Lands, National Parks, National Historic Parks, Historic Canals and all other public lands not specifically assigned to another department. The Department of Citizenship and Immigration administered Indian Lands.

Today, the Department of Indian Affairs and Northern Development administers Territorial Lands and Indian Lands. National Parks, National Historic Parks and Historic Canals are administered by the Department of Canadian Heritage. All other public lands not specifically assigned to another department are administered by the Department of Public Works and Government Services.

This Agreement no longer applies to Indian Lands. The *Interdepartmental Agreement Respecting Legal Descriptions of Indian Lands* (1991) superseded this Agreement in so far as it pertained to Indian Lands. The 1991 agreement has since been superseded by the *Interdepartmental Agreement Respecting Legal Descriptions of Indian Lands* (1993).

2. Subsection 43(4) of the *Canada Lands Surveys Act*, as it read in February 1955, corresponds to subsection 29(4) in the current Act.
3. In the case of Territorial Lands, Section 1 of this agreement was partly superseded on January 11, 1961 by the *Territorial Lands Regulations* (SOR/61-1), under which a 30-year lease may now be based on a description without benefit of survey.

3. Section 1 hereof notwithstanding, and for the same purposes provided therein, any parcel of land created by reason of having been surrounded on all or all but one of its rectilinear sides by parcels shown on prior official plans, may be described by reference to an explanatory plan approved by and held in the custody of the Surveyor General or, at the discretion of the Surveyor General, by metes and bounds, or the equivalent.

4. For purposes of grant of a lease of duration not more than ten years or for grant of a license of occupation or easement for a power, telegraph, telephone or oil pipe line, ditch, roadway or like purposes where exclusive right of occupation of the land involved is not granted, a parcel or parcels of land may be described by reference to an explanatory plan approved by and held in the custody of the Surveyor General; or at the discretion of the Surveyor General, by metes and bounds, or the equivalent, provided that in certain cases where boundary monuments are considered essential, an official plan and survey shall be required.

5. For the foregoing purposes, an explanatory plan shall be prepared and certified correct by a surveyor authorized under the *Canada Lands Surveys Act*, or otherwise prepared at the direction of the Surveyor General. It shall fully define and show the limits of the lands involved in all respects and for all purposes and shall be prepared from information obtained by survey methods or from official plans, approved explanatory plans, or official records. It shall not show any boundary monuments as having been placed or restored on the ground and shall not be used for the purpose intended until approved for the specific purpose by the Surveyor General.

6. The rules herein shall not apply when the granting of exploratory or development rights in connection with petroleum, mineral or other like natural resources or when the granting of Certificates of Occupation or Possession of Indian lands are involved, nor shall it affect in any way the powers vested in the Minister under Sections 34 & 42 of the *Canada Lands Surveys Act*.⁴

4. Section 34 of the *Canada Lands Surveys Act*, as it read in February 1955, was repealed by S.C. 1977, c. 30. Section 42 corresponds to section 27 in the current Act.

Interdepartmental Agreement respecting Legal Description of Indian Lands, 1993

An Agreement between the Surveyor General of Canada lands, Department of Energy, Mines and Resources
and

the Director, Lands Directorate and the Registrar of Indian Lands, Department of Indian Affairs and Northern Development respecting legal descriptions of Indian Lands.

Purpose

The purpose of this agreement is to identify appropriate methods of describing Indian Lands when legal descriptions are required by the Department of Indian Affairs and Northern Development. This agreement clarifies which products and methods of describing land can be used for specific types of land transactions involving Indian Lands. It also provides the basic principles on which the standards for the products and methods of describing land are based. This agreement replaces the *Interdepartmental Agreement re Description of Canada Lands* made in February 1955 in so far as the 1955 agreement pertained to Indian Lands, and the *Interdepartmental Agreement Respecting Legal Descriptions of Indian Lands* dated November 1991.

Scope

The Surveyor General of Canada Lands is responsible for legal surveys of Canada Lands and for maintaining the quality of these surveys. The surveys are made to produce legal descriptions of the extent of interests in the lands. The descriptions may be in graphical form by reference to a survey plan, may be textual, or may be both. The standards for the surveys are defined in the *Manual of Instructions for the Survey of Canada Lands*. Under Section 24 of the *Canada Lands Surveys Act*, Canada Lands means, in part, surrendered lands or a reserve as defined by the *Indian Act*, Category 1A land or Category 1A-N land as defined in the *Cree-Naskapi (of Quebec) Act*, or Sechelt lands as defined in the *Sechelt Indian Band Self-Government Act*.

The Director, Lands Directorate, is charged with the administration of Indian Lands. The Registrar of Indian Lands is responsible for the public registration of interests in Indian Lands. The standards and procedures for the legal documentation of interests and

registration are defined in the Indian Lands Registration Manual.

Indian Lands means Indian Reserves, designated lands, surrendered lands, and any other lands held and administered by the Department of Indian Affairs and Northern Development for the use and benefit of Indians.

This agreement does not apply to those Indian Bands who, by self-government legislation, may use land registries other than the Indian Lands Registry.

Agreement

The Surveyor General of Canada Lands, the Director, Lands Directorate and the Registrar of Indian Lands agree that legal descriptions made of Indian Lands in order to facilitate the registration of interests in those lands will be made in accordance with the attached requirements and with the *Manual of Instructions for the Survey of Canada Lands*.

Implementation

This agreement shall come into force on the First day of December, 1993. Legal descriptions commenced on the basis of specific survey instructions issued prior to the coming into force of this agreement shall be completed in accordance with the agreements in force at the time those specific survey instructions were issued.

Amendment

This agreement may be amended with the mutual written consent of both departments.

Termination

This agreement may be terminated at any time upon 90 days written notice by either department.

**Requirements for Legal Descriptions
of Indian Lands**

General

1. A lease is a written contract which grants the exclusive right to use and possess land for a specified time and for fixed consideration. For the purposes of this Agreement, a lease includes any authorizations given to other federal departments respecting the exclusive right to use land for a specified period of time. The term of a lease includes any renewal and/or extension provision contained therein. A lease is made pursuant to Section 53 or 58 of the *Indian Act*.

2. For the purposes of this Agreement, a permit is a formal written order empowering someone to occupy, use or exercise rights on Indian Lands and includes any authorizations given to other federal departments. The term of a permit includes any renewal and/or extension provision contained therein. A permit is made pursuant to Section 28 of the *Indian Act*.

3. In accordance with the provisions of Section 20 of the *Indian Act*, no Indian is in lawful possession of land in an Indian Reserve unless, with the approval of the Minister of the Department of Indian Affairs and Northern Development, possession of the land has been allotted to him or her by the Indian Band Council. Individuals may transfer their property pursuant to Section 24 of the *Indian Act*. The property of a deceased individual may be transferred pursuant to Section 43 and 49 of the Act.

4. Pursuant to Section 18(2) of the *Indian Act*, land in a reserve may be taken for the general welfare of the Band (e.g. schools, Band roads, churches, etc.). A band may absolutely surrender all of its rights in land to Her Majesty in right of Canada according to Section 38(1) of the *Indian Act* or pursuant to Section 38(2) a Band may designate (by way of a surrender that is not absolute) any right for the purpose of leasing or granting the right. Pursuant to Section 35 of the *Indian Act*, lands in a reserve may be taken for public purposes.

5. To describe the location and extent of lands subject to a land transaction, when the land transaction documents will be registered in the Indian Lands Registry, only the following land description products shall be used:

- a) Official plan;
- b) Explanatory plan;
- c) Registration plan;
- d) Land Use Area plan;
- e) Description in textual form.

6. The above land description products are described in Sections A to E herein and the land transactions for which each product may be used are identified on Chart A attached.

7. In cases when it is not clear which product may be used for a land transaction, the appropriate Regional Surveyor will identify the product to be used after discussion with the Deputy Registrar, Surveys, of the Indian Lands Registry.

8. Subject to Paragraph 9, the product to be created for any particular transaction shall be the least expensive suitable product which may be used. Usually, this product will be the first product indicated with a "yes" in Chart A, when the chart is read from left to right.

9. The appropriate Regional Surveyor may specify a higher quality product for any transaction in order to restore or maintain the quality of the survey framework in the area of the land which is subject to the transaction. When a higher quality product is required and supplementary funding is required from the Lands Directorate, Headquarters, then the Deputy Registrar, Surveys, must approve the preparation of the product in advance.

10. The appropriate Regional Surveyor is the Regional Surveyor of the Legal Surveys Division who is responsible for managing surveys on the Indian Lands. In most cases the appropriate Regional Surveyor is the Regional Surveyor of the province or territory in which the Indian Lands are situated.

11. An individual who is financing a legal survey to prepare one of the products identified in Paragraph 5 may specify a higher quality product than would normally be required by Paragraph 8.

12. To describe the location and extent of Indian Lands which are not subject to a land transaction registered or to be registered in the Indian Lands Registry, the graphical products identified in this Agreement should not be created. Graphical products already recorded in the Canada Lands Surveys Records, or other graphical products, may be used. The appropriate Regional Surveyor will identify a suitable product.

13. Product standards will be defined in the *Manual of Instructions for the Survey of Canada Lands*.

14. All surveys made on Indian Lands to define the boundaries of interests in land must be authorized in advance by the Indian Band Council for whose use and benefit the land was set apart.

15. An appropriately delegated official of the Department of Indian Affairs and Northern Development is an employee of the Department who is delegated, in writing, by the Minister to indicate on the Minister's behalf, that a survey and plan are satisfactory.

16. Notwithstanding anything contained in this Agreement, when an entire individual land holding is returned to a Band, then the original land description involved in the document by which the holding was acquired is acceptable for the use in the document returning the land holding.

Section A — Official Plan (Section 29 plan)

1. An Official Plan is a graphical description of boundaries of land prepared from field notes of an official survey of the land and confirmed by the Surveyor General of Canada Lands under Sections 29, 39, 42, 43, or 44 of the *Canada Lands Surveys Act*.

2. Pursuant to Section 29 of the *Canada Lands Surveys Act*, the Surveyor General will not confirm a plan of survey unless it has first been approved by the Minister of the Department of Indian Affairs and Northern Development.

3. Plans depicting surveys carried out under provincial legislation, and approved by provincial authorities, which define boundaries of land which subsequently become Indian Lands, are considered to be the equivalent of an Official Plan when they are recorded in the Canada Lands Surveys Records.

These plans must be approved by the Department of Indian Affairs and Northern Development as described in Paragraph 2 above.

4. The Regional Director, Lands, Revenues and Trusts must afford the Council of the Indian Band for whose land an Official Plan was made, an opportunity to comment on the plan before it is approved by the Department of Indian Affairs and Northern Development as described in Paragraph 2 above. The minimum time allowed the Council of the Indian Band to comment will be set by the Director of Lands.

5. An Official Plan may be in the form of a plan, or plan and field notes, or it may be compiled, under direction of the Surveyor General, from field notes of a number of surveys where the field notes are recorded in the Canada Lands Surveys Records.

6. An Official Plan may be used to define the boundaries of lands which are subject to any interests which have been, or will be, registered in the Indian Lands Registry. Chart A indicates the transactions for which an Official Plan may be used.

7. An Official Plan should not be prepared unless all of the following conditions will be satisfied:

- a) boundaries will be surveyed and monumented in accordance with the standards of the Canada Lands Survey System;
- b) field notes of the survey will be recorded in the Canada Lands Surveys Records, or be included in the plan;
- c) the survey and plan will be approved by appropriately delegated officials of the Department of Indian Affairs and Northern Development; and,
- d) the plan will be confirmed by the Surveyor General of Canada Lands.

8. An Official Plan is recorded in the Canada Lands Surveys Records in Ottawa. A reproducible copy is sent to the local provincial or territorial land registration office, and to the appropriate Regional Surveyor. Prints are sent to the Deputy Registrar, Surveys, to the appropriate offices of the Department of Indian Affairs and Northern Development, and to the appropriate Indian Band.

Section B — Explanatory Plan

1. An Explanatory Plan is a graphical description of the extent of certain interests in land, prepared without a full survey of the land, and approved by the Surveyor General of Canada Lands under Section 31 of the *Canada Lands Surveys Act*.

2. The Surveyor General will not approve an Explanatory Plan of Indian Lands unless it has first been approved by the Minister of the Department of Indian Affairs and Northern Development.

3. The Regional Director, Lands, Revenues and Trusts must afford the Council of the Indian Band for whose land an Explanatory Plan was made, an opportunity to comment on the plan before it is approved by the Department of Indian Affairs and Northern Development as described in Paragraph 2 above. The

minimum time allowed the Council of the Indian Band to comment will be set by the Director of Lands.

4. An Explanatory Plan may be used to define the boundaries of lands which are subject to interests which lie over or under other interests when the interests have been, or will be, registered in the Indian Lands Registry. Chart A indicates the transactions for which an Explanatory Plan may be used.

5. An Explanatory Plan should not be prepared unless all of the following conditions will be satisfied:

- a) the plan will be based on field notes recorded in the Canada Lands Surveys Records;
- b) parcels created will not be fully monumented to prepare the plan;
- c) parcels created will be fully depicted and identified on the plan;
- d) new lot numbers will not be issued (building unit numbers may be created when necessary);
- e) the plan will be approved by the appropriately delegated officials of the Department of Indian Affairs and Northern Development; and
- f) the plan will be approved by the Surveyor General of Canada Lands.

6. An Explanatory Plan is recorded in the Canada Lands Surveys Records in Ottawa. A reproducible copy is sent to the appropriate Regional Surveyor. Prints are sent to the Deputy Registrar, Surveys, to the appropriate offices of the Department of Indian Affairs and Northern Development and to the appropriate Indian Band.

Section C — Registration Plan

1. A Registration Plan is a graphical description of the extent of certain interests in Indian Lands, prepared without a full survey of the land, approved by the Registrar of Indian Lands, and approved by the Surveyor General of Canada Lands under Section 31 of the *Canada Lands Surveys Act*.

2. A Registration Plan may be approved by the appropriate Regional Surveyor on behalf of the Surveyor General.

3. A Registration Plan may be used to depict the boundaries of land which are subject to interests that are, or will be, registered in the Indian Lands Registry. Chart A indicates the transactions for which a Registration Plan may be used.

4. A Registration Plan should not be prepared unless all of the following conditions will be satisfied:

- a) the plan will be based on field notes recorded in the Canada Lands Surveys Records;
- b) parcels created will be fully depicted and identified by lot numbers or other appropriate designations (e.g. R/W) on the plan;
- c) parcels depicted will not be surveyed and will not be fully monumented to create the plan;
- d) the plan will be approved by the Registrar of Indian Lands or a person delegated, in writing, by the Registrar; and,
- e) the plan will be approved by the appropriate Regional Surveyor.

5. All parcels created by a Registration Plan are deemed to be replaced when defined by an Official Plan.

6. A Registration Plan is filed in the office of the appropriate Regional Surveyor. A reproducible copy is sent to the Surveyor General. Prints are sent to the appropriate offices of the Department of Indian Affairs and Northern Development.

Section D — Land Use Area Plan (LUA)

1. A Land Use Area Plan is a graphical depiction of the extent of certain interests in Indian Lands, prepared without a full survey of the land, and approved by the Surveyor General of Canada Lands under Section 31 of the *Canada Lands Surveys Act*.

2. A Land Use Area Plan may be approved by the appropriate Regional Surveyor on behalf of the Surveyor General.

3. A Land Use Area Plan may be used to depict the boundaries of land subject to interests which lie over or under other interests when the interests have been, or will be, registered in the Indian Lands Registry. Chart A indicates the transactions for which a Land Use Area Plan may be used.

4. A Land Use Area Plan should not be prepared unless all of the following conditions will be satisfied:

- a) the plan will be based on a line map or photomap base selected by the appropriate Regional Surveyor;
- b) the survey framework to be depicted on the plan has been compiled by the appropriate Regional Surveyor;

- c) land use areas will not be surveyed or monumented;
- d) land use areas will be fully depicted and identified on the plan; and,
- e) the plan will be approved by the appropriate Regional Surveyor.

5. A Land Use Area Plan is filed in the office of the appropriate Regional Surveyor. Prints are sent to the Deputy Registrar, Surveys, and to the appropriate offices of the Department of Indian Affairs and Northern Development.

Section E - Textual Description

1. A textual description is a description of the extent of certain interests in Indian Lands and may be used when the interests are, or will be, registered in the Indian Lands Registry. Chart A indicates the transactions for which a textual description may be used.

2. A textual description must clearly and unambiguously identify the land subject to the interest. If the land subject to the interest is the whole of, or a portion of, a lot shown on an existing plan, then the description must refer to the plan and lot. The dimensions of the parcel of land must be mentioned in the text or be clearly shown on the accompanying sketch. Any sketch accompanying a textual description must not exceed a maximum size of 27.94 cm x 43.18 cm (11" x 17"). Colour may not be used on such sketches.

3. Lands described by a textual description may be surveyed at some future date. However, there is no requirement to do so. A textual description is deemed to be replaced when the land which it describes is defined by an Official Plan, Explanatory Plan, or Registration Plan.

NOTES

Section references in Chart A, on the following page, are to the *Indian Act*.

- Sec. 18(2) land in a reserve may be taken for the general welfare of the Band (e.g. schools, Band roads, churches etc.).
- Sec. 20(1) possession of land can be allotted by a Band Council.
- Sec. 24 the right to possession of land may be transferred.
- Sec. 28(2) permits may be issued on reserve land.
- Sec. 35 land in a reserve may be taken for public purposes.
- Sec. 38(1) a Band may absolutely surrender all of its rights in land to Her Majesty in right of Canada.
- Sec. 38(2) a Band may designate (by way of a surrender that is not absolute) any right for the purpose of leasing or granting the right.
- Sec. 43, 49 the administration of property of deceased Indians.
- Sec. 53, 58 Surrendered, designated or reserve land may be leased.

The term of leases and permits include any renewal and extension provisions.

OCPC means "Order-in-Council (Privy Council)"

CHART A

Indian Lands Registry, Land Description requirements

| Purpose | LUA Plan | Text Description | Registration Plan | Explan Plan | Sec. 29 Plan CLS Act |
|--|---|---|---|--|---|
| I JURISDICTIONAL BOUNDARY | NO | NO | NO | NO | YES |
| II SURRENDERED LANDS — Sec. 38(1) – Surrender vote & OCPC – Disposition (OCPC etc..) | NO NO | NO NO | YES NO | YES NO | YES YES |
| III DESIGNATED LANDS — Sec. 38(2) – Designation vote & OCPC – Disposition (OCPC etc..) | NO NO | NO NO | YES NO | YES YES | YES YES |
| IV TAKINGS — Sec. 18(2), 35 – Section 35 – Section 35 Easement – Section 18(2) | NO NO NO | NO NO NO | NO NO YES | NO YES NO | YES YES YES |
| V LAWFUL POSSESSION – Allotment Sec. 20(1) – Transfer Sec. 24 – Administrator's Transfer Sec. 43 and 49 | NO NO NO | NO NO NO | YES YES YES | NO NO NO | YES YES YES |
| VI LEASES — Sec. 53, 58 – over 25 years – land – building unit with interest in land – building unit only – 10 to 25 years – land – building unit with interest in land – building unit only – under 10 years – land – building unit with interest in land – building unit only | NO NO NO NO NO NO NO NO YES NO NO | NO NO YES NO NO YES YES YES YES YES YES | NO NO YES YES YES YES YES YES YES YES YES | NO YES YES YES YES YES YES YES YES YES YES | YES YES YES YES YES YES YES YES YES YES YES |
| VII PERMITS — Sec. 28(2) – 10 years or more – less than 10 years – Utilities distribution (Blanket Permit) | NO YES NO | NO YES YES | YES YES NO | YES YES NO | YES YES NO |
| VIII ACCESS AGREEMENTS | NO | YES | YES | NO | YES |

Intergovernmental Agreement respecting Legal Surveys of Highways through Indian Reserves and Sechelt Lands (British Columbia)

An Agreement Between

The Surveyor General of Canada Lands
Department of Energy, Mines and Resources
and

The Surveyor General of British Columbia
Ministry of Environment, Lands and Parks

Purpose

The purpose of this agreement between the Surveyor General of Canada Lands and the Surveyor General of British Columbia is to establish common standards for the legal survey of portions of Canada Lands within the province of British Columbia when those portions are to be transferred to British Columbia for a highway.

Scope

The Surveyor General of Canada Lands is responsible for legal surveys on Canada Lands and for maintaining the quality of these surveys. The standards for these surveys are defined in the *Manual of Instructions for the Survey of Canada Lands* (Second Edition). Under Section 24 of the *Canada Lands Surveys Act*, Canada Lands means, in part, surrendered lands or a reserve as defined by the *Indian Act* or Sechelt lands as defined in the *Sechelt Indian Band Self-Government Act* (hereinafter collectively referred to as Indian Reserves).

The Surveyor General of the Province of British Columbia is responsible for the regulation of legal surveys in the province of British Columbia. The standards for these surveys are defined in the General Instructions to British Columbia Land Surveyors issued by the Surveyor General of British Columbia.

The Supplementary Instructions attached to this agreement supplement the Manual of Instructions and are to be followed when a highway is to be surveyed across an Indian Reserve within British Columbia.

Agreement

The Surveyor General of Canada Lands and the Surveyor General of British Columbia agree that legal surveys made of portions of Canada Lands in order to

facilitate the transfer of those portions to British Columbia for use as a highway, will be made in accordance with the attached Supplementary Instructions.

Implementation

This agreement shall come into force on the first day of the month following the signing of the agreement by both parties. Surveys commenced on the basis of specific survey instructions issued prior to the coming into force of this agreement shall be completed as required by the standards in force at the time those specific survey instructions were issued.

NOTE

This agreement was signed on July 29, 1992 and August 6, 1992. The agreement came into force on September 1, 1992.

Amendment

This agreement may be amended with the mutual written consent of the parties. Any amendment will come into force on the first day of the month following the signing of the amendment agreement by both parties and under the same conditions as the original agreement.

Termination

This agreement may be terminated at any time upon 90 days written notice by either party.

Supplementary Instructions for the Survey of Highways through Indian Reserves in British Columbia

Authority

The *Canada Lands Surveys Act* (R.S.C.1985, c. L-6) and *Manual of Instructions for the Survey of Canada Lands* (Second Edition).

Qualification of Land Surveyor

The survey shall be carried out by a British Columbia Land Surveyor. It is preferable that the surveyor also be a Canada Lands Surveyor.

Agent of the Surveyor General of Canada Lands

The Regional Surveyor, British Columbia, of the Legal Surveys Division of the federal Department of Energy Mines and Resources shall be the representative of the Surveyor General of Canada Lands in all matters dealing with the subject survey.

Survey Instructions

1. When a highway is required through Indian Reserves either the British Columbia Ministry of Transportation and Highways (Ministry of Highways) or its designated British Columbia Land Surveyor shall apply to the Regional Surveyor, British Columbia for authority to make a survey and for specific survey instructions to perform the survey. Each application shall be accompanied by a sketch showing the approximate location of the highway, the reasons for the survey, and any unusual conditions which may affect the survey.

2. The authority to make a survey is subject to the approval of the federal government department or other party responsible for administering the lands.

3. Specific survey instructions will include a copy of all pertinent existing survey plans and field notes for the area subject to the survey. When a request is made by a designated British Columbia Land Surveyor, a copy of the specific survey instructions will also be sent to the Ministry of Highways.

4. Unless otherwise specified in the specific survey instructions, the survey will be carried out in accordance with the *Canada Lands Surveys Act*, the *Manual of Instructions for the Survey of Canada Lands* (Second Edition) and these supplementary instructions.

5. Where an existing highway is involved with the new highway and all or a portion of it is to be returned to Indian Reserve status, then the British Columbia Land Surveyor will, in addition to surveying the new highway, ensure that the survey adequately defines the land being returned and that the area of the land being returned is shown on the plan of survey.

Plan and Field Notes

6. The survey, plan of survey, and field notes must conform with the requirements of Chapter B of the *Manual of Instructions for the Survey of Canada Lands* (Second Edition). The field notes must be submitted in separate plan form. For simple or small surveys combined plan and field notes will be accepted. Field notes should be a true representation of the survey as conducted on the ground.

7. The plan of survey shall contain a table of areas near the title listing:

- a) the legal description (i.e. parcel identifier) of each parcel crossed by the highway; and
- b) the area of each parcel included in the highway.

8. If land is being returned to Indian Reserve status then a second table of areas of the land being returned is required, listing:

- a) the legal description (i.e. parcel identifier) of each parcel being returned to Indian Reserve status; and
- b) the area of each parcel being returned.

9. For curved boundaries, show on the plan of survey the information required by Chapter B-10, Sec. 9 of the *Manual of Instructions for the Survey of Canada Lands* (Second Edition). The bearings of radii shall be shown:

- a) at all points of intersection on curved boundaries;
- b) at points of change of radii in a compound curve; and
- c) at jogs in curved boundaries.

Plan Title

10. The title of the plan of survey shall be at the right end of the plan and shall be in the following format.

PLAN OF SURVEY OF
HIGHWAY THROUGH
KAMLOOPS INDIAN RESERVE No. 1
KAMLOOPS DIVISION OF YALE DISTRICT
BRITISH COLUMBIA

Monuments

11. Monuments approved by the Surveyor General of British Columbia shall be used in the survey. These monuments are described in the General Survey Instructions to British Columbia Land Surveyors.

12. Capped posts (type 4) shall be set on one side of the highway under survey at:

- a) intersections with the Indian Reserve boundaries;
- b) points of curve;
- c) points of deflection;
- d) intermediate points on tangent, so that the distance between the posts is no greater than 1 kilometre; and
- e) intersections with boundaries of a lot which exceeds 2 hectares in area.

13. Iron posts (type 5) shall be set:

- a) on the side of the highway under survey opposite the side posted with the capped posts; and
- b) on both sides of the highway under survey at intersections with any type of surveyed boundary not referred to in subsection 12(e).

14. Concrete posts or rock posts (type 1 or 2) shall be substituted for type 4 posts so as to give an average density of one type 1 or 2 post every 2 kilometres.

15. Type 5 posts shall be substituted for type 1, 2 or 4 posts so as to reduce the average density of types 1, 2 or 4 posts to 5 per kilometre.

16. Monuments shall be marked with the designation of lands adjoining the highway.

17. Monuments that do not mark boundary intersections shall be serially numbered.

18. Where a monument marks a change in the direction of the highway boundary, the appropriate abbreviation shall be marked on the monument as follows:

- a) "P" for point of curve;
- b) "POT" for point on tangent, subtangent or subtangent produced;

- c) "PI" for point of intersection; and
- d) "R" for the highway under survey.

Survey Returns

19. Upon completion of the survey the surveyor will submit two prints of the plan of survey to the Ministry of Highways for approval in principle. The surveyor will submit six prints of the plan of survey, three prints of the field notes and a survey report to the Regional Surveyor, British Columbia for examination.

20. The Regional Surveyor will submit prints of the plan of survey to the federal Department of Indian Affairs and Northern Development and the appropriate Indian Band for approval.

21. When the plan is acceptable, the Regional Surveyor will request that the surveyor submit the plan of survey, the field notes, and a letter from the Ministry of Highways indicating its acceptance of the plan of survey.

22. The Regional Surveyor will submit the plan of survey to the federal Department of Indian Affairs and Northern Development for the signatures of the Regional Director, Statutory and Trusts and the Deputy Registrar of the Indian Lands Registry.

23. The Regional Surveyor will submit the plan of survey to the Surveyor General of Canada Lands for confirmation under Section 29 of the *Canada Lands Surveys Act*. The plan of survey, the field notes and the survey report will be recorded in the Canada Lands Surveys Records.

24. Under Section 30 of the *Canada Lands Surveys Act* a reproducible copy of the plan of survey will be sent to the Registrar of the appropriate Land Title Office. The Registrar will be asked to inform the Surveyor General of Canada Lands of the number assigned to the plan.

25. The Surveyor General of Canada Lands will add the Land Title Office number to the plan of survey and send a reproducible copy of the plan of survey to the Surveyor General of British Columbia.

Town of Banff Incorporation Agreement

Excerpts of an Agreement between

The Government of Canada
and

The Government of Alberta

Memorandum of Agreement

This Memorandum of Agreement made this 12th
day of December, 1989.

Between:

the Government of Canada,
(hereinafter called "Canada"),
of the first part,

-and-

the Government of the Province of Alberta,
(hereinafter called "Alberta"),
of the second part.

WHEREAS the residents of the town of Banff in Banff National Park, a National Park of Canada, in the Province of Alberta, by a plebiscite held on the 13th day of June, 1988, signified their desire for local government by the establishment of a municipal corporation;

AND WHEREAS pursuant to section 8.2 of the *National Parks Act*, R.S.C. 1985, c. N-14, 4th Supplement, c. 39, subject to the approval of the Governor General in Council, the Minister of the Environment is authorized to enter into and execute this Agreement with Alberta for the establishment of a local government body for the town of Banff, and to entrust local government functions to that body;

AND WHEREAS pursuant to section 17, of *The Department of Municipal Affairs Act*, R.S.A. 1980, c. 103, and section 2 of the *Parks Towns Act*, S.A. 1989, c. P-1.5, the Minister of Municipal Affairs is authorized to execute this Agreement on behalf of Alberta;

AND WHEREAS the parties desire to enter into this Agreement for the purposes of establishing a local government body for the townsite of Banff and entrusting to that body certain local government

functions, and for matters related and incidental thereto, all as are hereinafter more particularly set forth.

THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1 — DEFINITIONS

1.1 In this Agreement,

(a) "Federal Minister" means a member of the Queen's Privy Council for Canada designated by the Governor in Council as the Minister for purposes of the *National Parks Act*, or his delegate;

(b) "*Municipal Government Act*" means R.S.A. 1980, c. M-26 as amended to January 1, 1989;

(c) "*National Parks Act*" means R.S.C. 1985, c. N-14, Supplement, c. 39;

(d) "Provincial Minister" means the Minister of Municipal Affairs or his delegate and his successor;

(e) "Park" means Banff National Park, including the townsite;

(f) "*Parks Towns Act*" means S.A. 1989, c. P-1.5;

(g) "Town" means the Corporation of the Town of Banff and includes its council, officers, employees, boards, committees or other agencies;

(h) "townsite" means that area of land in Banff National Park whose boundaries have been established pursuant to Article 3.

ARTICLE 2 — CREATION OF TOWN

2.1 The parties agree that there will be established a municipal corporation to be known as the Town of Banff.

2.2 Such municipal corporation shall be established pursuant to the *Parks Towns Act* to provide local government in the townsite in accordance with this Agreement.

2.3 Each party shall take those actions necessary to enable the incorporation of the Town effective January 1st, 1990.

ARTICLE 3 – BOUNDARIES

3.1 The townsite boundaries to be used in incorporating the Town under the *Parks Towns Act*, shall be the boundaries described in Plan Number 72468 in the Canada Lands Surveys Records at Ottawa, a copy of which was deposited at the Land Titles Office for the South Alberta Land Registration District on November 29, 1989, as Plan Number 8911788.

3.2 Pursuant to s. 8.1 of the *National Parks Act* the boundaries of the townsite when fixed by Order in Council, shall constitute the boundaries of the Town and such boundaries shall not be altered by annexation or otherwise except by amendment to the *National Parks Act*.

ARTICLE 4

GENERAL MUNICIPAL FUNCTIONS OF TOWN

4.1 Subject to this Agreement, effective January 1, 1990, the Town shall have all the rights, obligations, duties, powers and functions, and be subject to the same limitations and restraints, provided for by the laws of Alberta as they existed on January 1, 1989, that apply to towns incorporated pursuant to the *Municipal Government Act*.

4.2 The Federal Minister may declare any amendments made after January 1, 1989 to the laws of Alberta pertaining to a town by the Legislative Assembly of Alberta or by the Lieutenant Governor in Council to apply in whole or in part to the Town.

4.3 As set out in the Banff National Park Management Plan, the purposes and objectives for the townsite are as follows:

- (a) to maintain the townsite as part of a World Heritage Site;
- (b) to serve, as its primary function, as a centre for visitors to the Park and to provide such visitors with accommodation and other goods and services;

(c) to provide the widest possible range of interpretive and orientation services to Park visitors;

(d) to maintain a community character which is consistent with and reflects the surrounding environment; and

(e) to provide a comfortable living community for those persons who need to reside in the townsite in order to achieve its primary function.

4.4 The Town shall not exercise any of the powers, duties and functions contained in the following sections of the *Municipal Government Act*, and such sections shall not apply to the Town; namely, sections 12 to 25, 155, 160(1)(f)(iii), 195, 216(1) as it pertains to zoos and 219.

4.5 Title to all land in the Park, including mines and minerals, shall remain in Her Majesty the Queen in Right of Canada.

4.6 With the approval of the Federal Minister, the Town may

(a) acquire a leasehold interest, or other interest or right lesser than a leasehold interest, to or in respect of land in the Park; and

(b) dispose of any interest in or right relating to land in the Park that it has previously acquired,

except that all rights to, interests in and rights of dominion and control over any lake, river, stream or other naturally occurring body of water or the bed or shore thereof, shall remain with Canada unless expressly otherwise agreed by Canada pursuant to Article 4.12(h) or otherwise.

4.8 A reference to the "Minister of Transportation and Utilities" in sections 172 to 183 of the *Municipal Government Act* shall mean, for purposes of the Town, the Federal Minister or his delegate.

4.12 With the approval of the Federal Minister, the Town may pass by-laws or resolutions for the purpose of, relating to or affecting:

(d) the ownership, operation or regulation of cemeteries;

(h) any river, stream or other naturally occurring body of water, or the bed or shore thereof; and

4.13 Any by-law passed by the Town that is subject to the approval of the Federal Minister may not be repealed or amended without further approval of the Federal Minister.

4.14 Canada and the Town may enter into agreements in respect of any matter pertaining to the Town, provided any such agreement dated prior to January 1, 1992 shall be subject to the approval of the Provincial Minister. In exercising its authority under this Article, Alberta agrees to adopt as its primary interest and consideration, the financial effect of the agreement on the Town.

ARTICLE 5 — PLANNING FUNCTIONS OF TOWN

5.1 (1) In this Article:

- (a) "development" includes the cutting or removal of trees in whole or in part;
 - (b) "instrument" includes a lease, sub-lease or license of occupation;
 - (c) "land" includes land held under a lease, sublease or licence of occupation from the Crown;
 - (d) "owner" includes a person who is the lessee of Crown land and his successors and assigns;
 - (e) "parcel" includes the aggregate of the one or more areas of land described in a lease from the Crown;
 - (f) "*Planning Act*" means those sections of the *Planning Act*, R.S.A. 1980, c. P-9 that apply to the Town pursuant to this Agreement;
 - (g) "registered owner" includes the lessee of Crown land and his successors and assigns;
 - (h) "subdivision approving authority" means the municipal planning commission of the Town;
 - (i) "subdivision" means
 - (i) the division of a parcel by an instrument;
 - (ii) the consolidation of, or boundary change to, two or more adjoining parcels; or
 - (iii) the construction of a building over the boundary of two or more adjoining parcels,
- and "subdivide" has a corresponding meaning.

(2) Any reference to the "Minister" contained in the sections of the *Planning Act* that apply to the Town shall mean the Federal Minister or his delegate.

(3) The definitions in this Article shall either be in addition to or as a substitute for the definitions contained in the *Planning Act*, as the context requires.

5.2 (1) Subject to Article 5.2(2), except to the extent that they are inconsistent with this Agreement, the following sections of the *Planning Act* in force as at January 1, 1989 shall form part of this Agreement and shall apply to the Town, namely, sections 1, 4, 6, 7, 28 to 31, 33 to 43, 45, 61 to 69, 71, 72, 74, 75 to

77.1, 78(1) and (2), 79 to 85, 86(1) and (4), 90, 91(1) and (2), 92 to 96, 98 to 100, 102 to 104, 105(1) to (5), 111 to 119, 123 to 143, 149 and 152 to 155.

(2) The land use by-law of the Town may provide for those circumstances in which more than one dwelling unit per lot is authorized in addition to those set out in s. 78(2) of the *Planning Act*.

5.3 The Federal Minister may declare that any amendments made to the *Planning Act* by the Legislative Assembly of Alberta after January 1, 1989 shall apply in whole or in part to the Town.

5.4 The Town shall adopt a general municipal plan and a land use by-law for the Town.

5.5 A statutory plan or land use by-law, or any repeal thereof or amendment thereto, adopted or passed by the Town shall go into effect only upon being approved by the Federal Minister.

5.6 The Town shall establish a municipal planning commission to consist of at least three persons, one of whom shall be nominated by the Federal Minister.

5.7 The Town shall establish a development appeal board consisting of five persons, one of whom shall be nominated by the Federal Minister.

5.8 No person shall subdivide a parcel within the townsite without the approval of the subdivision approving authority.

5.9 An applicant for subdivision approval shall submit his application to the subdivision approving authority in such form and accompanied by such materials as may be prescribed in the land use by-law.

5.10 In addition to any other matter provided for in the *Planning Act*, the land use by-law may contain provisions

- (a) prohibiting or controlling and regulating the subdivision of land;
- (b) governing the procedure to be followed by applicants for subdivision approval and the persons who may apply;
- (c) governing the contents and filing of plans and other documents in the course of an application for subdivision approval;
- (d) governing the location, size and shape of lots and other areas of land to be created or proposed to be subdivided;
- (e) governing the location of public utilities and public roadways in a proposed subdivision and the

minimum width and the maximum gradient of public roadways;

(f) prescribing the information that shall be contained in a notice under section 93(4) of the *Planning Act*;

(g) prescribing that the subdivision approving authority may require a dedication of municipal reserve, school reserve or municipal and school reserve, or payment of money in lieu, in addition to the 10% prescribed in the *Planning Act* in the case of a proposed subdivision that would result in a density of 12 or more dwelling units per acre of developable land;

(h) prescribing the conditions that a subdivision approving authority is permitted to impose when granting subdivision approval in addition to those conditions permitted to be imposed under the *Planning Act*;

(i) prescribing the fees to be paid by a person applying for subdivision approval or appealing the decision of the subdivision approving authority to the development appeal board; and

(j) concerning any other matters that to the Town appear necessary to regulate and control subdivisions.

5.11 (1) An appeal from a decision of the subdivision approving authority, or any condition imposed by it, may be commenced by:

- (a) the applicant for subdivision approval;
- (b) the council of the Town;
- (c) a school authority; or
- (d) any other affected person

by filing a written notice of appeal with the development appeal board,

- (i) in the case of an appeal by the applicant or the council, within thirty (30) days, and,
- (ii) in the case of an appeal by a school authority or other affected person, within fourteen (14) days,

of the issuance of the decision.

(2) In the case of an appeal by other than the applicant or the council, the decision of the subdivision approving authority shall be deemed to have been issued on the date of publication of notice of the approval of the subdivision application pursuant to s.93(4) of the *Planning Act*.

5.12 (1) Subject to Article 5.12(2), the subdivision approving authority shall render a decision on an application for subdivision approval within thirty (30)

days of the date of receipt by it of the completed application.

(2) If the subdivision approving authority fails or refuses to make a decision on an application for subdivision approval within the time prescribed in Article 5.12(1) the applicant may, within fourteen (14) days after the expiration of the time prescribed,

- (a) treat the application as refused and appeal to the development appeal board; or
- (b) enter into an agreement with the subdivision approving authority to extend the time prescribed in Article 5.12(1).

(3) If an agreement is entered into pursuant to Article 5.12(2)(b) and the subdivision approving authority fails or refuses to make a decision within the time set out in the agreement, the applicant may, within fourteen (14) days after the expiration of the extended period, treat the application as refused and appeal to the development appeal board.

(4) A subdivision approving authority shall not deal with an application for subdivision approval after the expiration of the period prescribed in Article 5.12(1), or the time set out in an agreement made under Article 5.12(2)(b), as the case may be.

5.13 In processing and deciding a subdivision appeal, the development appeal board shall follow the procedures prescribed in ss.84(2), (3), and (4) and in ss. 85(1) and (2) of the *Planning Act* and, subject to Article 5.19 of this Agreement, may exercise only those powers conferred on a subdivision approving authority by this Agreement and the *Planning Act*.

5.14 A subdivision approved by the subdivision approving authority or by the development appeal board shall not be implemented until the Federal Minister has approved any new or amended lease required to effect the subdivision and any fees relating thereto have been paid to Canada.

5.15 Every statutory plan adopted and land use by-law passed under this Agreement and the *Planning Act*, and every action taken or decision made pursuant to such plan or by-law by the council, the municipal planning commission, the development officer, the development appeal board or any other authority shall conform with the Banff National Park Management Plan approved by the Federal Minister.

5.16 Subject to Articles 5.17, 5.18 and 5.19, every action taken or decision made by the council, the municipal planning commission, the development officer and the development appeal board shall conform

with any statutory plan adopted and land use by-law passed under this Agreement and the *Planning Act*, and with the provisions of this Agreement and the *Planning Act*.

5.17 (1) Subject to Article 5.17(2) every development or subdivision undertaken by the Town shall be in accordance with this Agreement and the *Planning Act*.

(2) The *Planning Act* does not apply to a development or subdivision undertaken by the Town and effected solely for the purpose of a public roadway or utility installation.

5.18 At the request of the Town, the Federal Minister may exempt, in whole or in part, any development or subdivision from the operation of this Agreement and the *Planning Act*.

5.19 (1) Subject to Article 5.19(2), the development appeal board may make an order or a decision or issue or confirm the issuance of a development permit or approve an application for subdivision approval notwithstanding that the proposed development or subdivision does not comply with the land use by-law if, in its opinion,

- (a) the deviation from the by-law is minor in nature;
- (b) strict application of the by-law would cause unnecessary hardship to the applicant arising out of circumstances peculiar to his land; and
- (c) the deviation from the by-law would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties.

(2) The development appeal board shall not approve a proposed development or subdivision that does not conform with the use prescribed for the subject land in the land use by-law.

5.20 The Federal Minister may exercise any of the powers of enforcement conferred on the Town under this Agreement, the *Planning Act* and the *Municipal Government Act* in respect of the subject matters dealt with in this Article 5.

5.21 The Town may enter into a contract or other arrangement with any local authority, regional planning commission or any other agency for the purpose of assisting it in discharging its powers and duties under this Agreement and the *Planning Act*.

5.22 The Federal Minister shall have standing

(a) to appear at any public hearing; and

(b) to commence any legal proceedings

in connection with any decision made or action taken for purposes of or pursuant to Article 5 of this Agreement and the *Planning Act*.

ARTICLE 6

CONTINUING JURISDICTION OF CANADA

6.1 Every by-law or resolution of the Town and every action taken or decision made by the Town shall be consistent with this Agreement and with any statutes of Canada and Alberta, or regulation or order made thereunder, that is in force in the Town.

6.2 (1) Notwithstanding anything contained in this Agreement, the *Planning Act* or any other law of Alberta that applies to the Town, the *Environmental Assessment and Review Process Guidelines Order* shall apply to any development, subdivision or other proposal within the townsite, and the Department of the Environment (Canada) shall be deemed to be the initiating department for purposes of that *Order*.

(2) Where, as a result of its assessment of a proposal under the *Order*, the Department of the Environment (Canada) requires that a mitigative measure be taken to minimize the potential adverse environmental effect of a proposed development or subdivision in the townsite, such measure shall be deemed to be a condition of the development permit or the subdivision approval, as the case may be, granted in respect of the proposal.

6.3 (1) If the Federal Minister is of the opinion that any by-law, resolution or other action of the Town is inconsistent with the purposes and objectives of the townsite or is inadequate to protect the Park environment, Canada may

- (a) withdraw or alter any or all of the functions entrusted to the Town under Article 5, whereupon Canada may exercise jurisdiction over planning, development and subdivision in the townsite, in whole or in part, in any manner it deems fit;
- (b) declare such by-law or resolution to be inoperative in whole or in part; and
- (c) make regulations or do such other things it considers appropriate and such regulations or other actions shall operate notwithstanding the by-laws or resolutions of the Town.

ARTICLE 7 — TRANSITIONAL

7.6 A by-law passed by the Town shall not come into force until:

- (a) the date provided for in the by-law for its coming into force; or
- (b) in the case of a by-law concerning a matter that is governed by a regulation made under the *National Parks Act*, on the date that the regulation no longer applies to the townsite.

7.9 Nothing in this Agreement affects the operation of any regulation made under the *National Parks Act* until such regulation has been repealed or amended to the extent that it no longer applies to the townsite.

ARTICLE 11 — LEASES

11.3 Canada and the Town may enter into an agreement in respect of the administration of leases of land in the townsite.

ARTICLE 13 — MISCELLANEOUS

13.4 This Agreement constitutes the entire agreement between the parties with respect to the subject matter of the Agreement and supersedes all previous negotiations, communications and other agreements, whether written or oral, relating to it unless they are incorporated by reference in this Agreement. There are no terms, obligations, covenants, representations, statements or conditions other than those contained herein.

13.6 No amendment or waiver of this Agreement, or of any of its terms and provisions, shall be deemed valid unless effected by a written amendment to this Agreement executed by both parties to this Agreement.

13.16 This Agreement shall become effective on the date the Governor General in Council issues an Order authorizing the Federal Minister to enter into the Agreement.

SCHEDULE 1***Municipal Government Act***

Excerpts from
Chapter M-26, R.S.A. 1980
 Consolidated to 01.01.89.

PART 1***Interpretation******Definitions***

1. In this Act,

- (i) "land" means land, tenements, hereditaments or any estate or interest in them and, without restricting the generality of the foregoing, includes growing timber but does not include minerals;
- (j) "Land Compensation Board" means the Land Compensation Board established under the *Expropriation Act*;
- (k) "mayor" includes the reeve of a municipal district;
- (l) "Minister" means the Minister of Municipal Affairs;
- (o) "municipal official" means
 - (i) a municipal commissioner, manager, secretary, treasurer, assessor, solicitor, comptroller, engineer and any other official appointed by resolution or by by-law of the council, and
 - (ii) the holder of any other position or office designated as such by the council;
- (p) "municipal secretary" means, in the case of a city, the city clerk, and in any other municipality the person appointed as secretary by the council;
- (q) "municipality" means a city, town, village, summer village or municipal district;
- (s) "parcel" means
 - (i) any unsubdivided block or any lot, or any part of such a block or lot, in any area of land

of which a plan of subdivision is registered in a land titles office,

(ii) in any case where a building affixed to the land that would without special mention be transferred by a transfer of land has been erected on 2 or more lots or parts thereof, all those lots.

(iii) if there is no such plan of subdivision, a 1/4 section of land according to the system of surveys under the *Surveys Act* or any other area the description of which has been approved by the proper land titles office, or

(iv) all the land forming part of any railway, irrigation or drainage right of way;

(t) "prescribed" means prescribed by the Minister;

(w) "purchaser" means any person who has purchased or otherwise acquired land or other property within the municipality, whether he has purchased or otherwise acquired it direct from the owner of it or from another person, and has not become the owner of it;

PART 3

THE COUNCIL

Municipal council

26. (1) Every municipality shall have a council, the members of which shall be elected in accordance with the *Local Authorities Election Act*.

Signature on documents

46. Unless the council otherwise directs, every order, agreement or document made or executed on behalf of a municipality shall be signed by the mayor and the municipal secretary or their designated alternates.

Executive committee

47. (1) A council may by by-law provide

(a) for the appointment, by the council or by the mayor, of an executive committee which may be comprised of

(i) members of the council, or

(ii) members of the council and officials of the municipality,

and

(b) for the delegation to the executive committee of the power to make decisions or orders, enter into contracts, execute agreements or documents and to affix the municipal seal thereto.

(2) All decisions, orders, contracts, agreements and documents made or executed by the executive committee are as valid and enforceable as if made directly by the council that delegates the powers.

(3) Every order, contract, agreement or document made or executed under this section shall be signed by the municipal secretary.

PART 4

OFFICERS AND EMPLOYEES

Municipal Secretary

Municipal secretary

57. (1) Every council shall, at its first meeting after the formation of the municipality or as soon thereafter as may be practicable, by by-law appoint a municipal secretary and prescribe his duties.

Duties of municipal secretary

58. Notwithstanding any other duties the municipal secretary shall

(d) transcribe into a suitable register and have custody of all by-laws and, having seen to their proper completion, preserve and keep safe the originals thereof;

(e) take charge of and keep on record all other books, papers, accounts, plans, maps, correspondence and any other documents committed to his charge by the council and deliver them to his successor or some other person the council may designate on his ceasing to hold office;

(j) have custody of the corporate seal of the municipality.

Other Officials

Other officials

82. A council may provide for the appointment of any other officials it considers necessary for carrying into effect this Act or any other Act affecting municipalities or any municipal by-law and prescribe their duties.

Municipal Commissioners or Manager

Delegation of powers by council

91. (1) A council may, by by-law provide for the delegation of any or all of its executive and

administrative duties and powers to one or more municipal commissioners or to a municipal manager.

(2) The municipal commissioners or the municipal manager, as the case may be, shall exercise the powers and duties set out in this Act and any other powers and duties vested, confirmed or delegated by by-law or by resolution of the council.

Mayor, by virtue of his office, commissioner

93. The mayor is, by virtue of his office, a commissioner in addition to those appointed by the council.

Reference in Acts to commissioner or manager

97. Unless the context otherwise requires, wherever in this Act or any other Act there is a reference to municipal commissioners or to their powers, the reference shall be deemed to be a reference to the municipal manager, or to the municipal commissioners, as the case may be, if any, and if there is no by-law providing for either municipal commissioners or a municipal manager, the reference shall be deemed to be a reference to the mayor.

PART 5

POWERS AND DUTIES

General

Municipal council to act by resolution or by-law

99. (1) The powers and duties imposed or conferred on a municipality by this or any other Act are vested in and are exercisable by the council of the municipality.

(2) Except as provided in this or any other Act, a council may exercise and perform the powers and duties imposed or conferred on it either by resolution or by by-law.

(3) A council may exercise or perform by by-law any power or duty that is stated in this or any other Act to be exercisable by resolution.

Jurisdiction of council

101. The jurisdiction of a council is confined to the territorial limits of the municipality and to any property owned, controlled or managed by the municipality outside its limits, except where further jurisdiction beyond the limits is expressly given to a council by this or any other Act.

Property in settlement of debts

118. A municipality may acquire, hold and dispose of real or personal property offered or transferred to it in partial or complete settlement or payment of, or as security for, any lien or charge or any right to a lien or charge on any taxes, licence fee or other indebtedness owing to the municipality.

General Government

Acquisition of land

126. (1) A council may acquire land or any interest therein either inside or outside the municipality for any municipal purpose.

(7) Subject to the provisions of this Act respecting the acquisition of land outside a municipality, a council may authorize the acquisition by purchase or expropriation of

- (a) land inside or outside the municipality for the purpose of subdivision and building sites,
- (b) subdivided land inside or outside the municipality for resale as building sites,
- (c) land previously used as military establishments by purchase or lease from the Government of Canada or the Government of Alberta, and
- (d) land for the purpose of exchanging with other land required for any municipal purpose.

(11) Land acquired pursuant to this section may be sold, leased or otherwise disposed of in whole or in part and in any manner and at any times and under any terms and conditions that the council by resolution from time to time may prescribe.

Disposal of land

127. (1) When a council acquires or is empowered to acquire any land or any estate or interest therein by purchase, expropriation, gift or other manner other than pursuant to the *Tax Recovery Act*, the council may hold, convey or dispose of the land or estate or interest in the land in any manner that the council considers advisable or expedient.

Expropriation of land

132. (1) If a council desires to acquire land, either inside or outside the municipality for any purpose authorized by this Act, or required for municipal public use or in connection with a plan of development whether undertaken solely by the municipality or in conjunction with any person or for the purpose of preventing the working of any mine within, on or under any portion of the land inside the municipality or for the

purpose of improving any land owned by the municipality, the municipality shall first negotiate with the owners and occupiers of that land or other persons interested therein for the acquisition of the land by agreement and if it cannot acquire the land at an acceptable price by agreement, the municipality may acquire the land by expropriation pursuant to the Expropriation Act.

Land for highways

135. If the land to be taken is required for the opening, extending or widening of a highway, the municipality shall also deposit copies of the plan of survey in the office of the Registrar of Land Titles and the Registrar shall receive and preserve the plan in like manner as railway plans are received and preserved under the Railway Act.

Vesting of title to highways

136. (1) When through agreement with the owner, a municipality acquires land for the purpose of a highway, road, street, lane, bridge, culvert, ditch or drain, title to the land may be vested in the city, or in the case of any other municipality, the Crown in right of Alberta, by filing in the proper land titles office

- (a) plans of survey in accordance with section 135, and
- (b) an affidavit of the municipal secretary setting forth a description of the land, and stating that
 - (i) an agreement has been reached with the registered owners as to the land to be acquired and the price to be paid, and
 - (ii) all persons registered on the certificates of title affected by the plans of survey as having an interest within 40 metres of the new boundary of the right of way as shown on the plans of survey have been notified by registered mail,

and it is not necessary to register a transfer to that land.

(2) A municipality is not entitled to mines and minerals in any land vested in it pursuant to this section and the title to any mines or minerals is not affected by the filing of any plan of survey pursuant to this section.

- (3) In subsection (1), "registered owners" means
 - (a) the owners of the fee simple estate in land,
 - (b) in the case of land that is being acquired under an agreement for sale, the owners of the fee simple estate in the land and the purchasers under the agreement for sale who have registered their

interest against the certificate of title for the land, or

- (c) in the case of land that is subject to a lease for which a certificate of title has been issued, the owners of the fee simple estate in the land and the lessees under that lease.

Protection to Persons and Property

Protection of life or property

153. A council may by by-law make provision for the regulation of any matter or thing for the protection of life or property.

Public Works

Title to highways

172. (1) The title to all public highways, roads, streets, lanes, alleys and bridges in a municipality, other than a city, is vested in the Crown in right of Alberta.

(2) The title to all public highways, roads, streets, lanes, alleys and bridges in a city is, except as far as is excluded by a special Act or an agreement, vested in the city.

(3) Subject to every other Act, a council has the control and management of the public highways, roads, streets, lanes, alleys, bridges, rivers, streams, watercourses, lakes, and other bodies of water within the municipality, including the air space above and the ground below.

(4) Nothing in this section gives a municipality title to or control and management of mines and minerals.

Overhang or excavation on highways

176. (1) A council may grant to any person owning land adjacent to a highway or public place, the privilege of erecting a structure overhanging the highway or public place or any part thereof, or of excavating under the highway or public place for a cellar, area-way or other purpose under the terms and conditions and subject to the payment of the annual rental that the council fixes.

(2) A council may grant a permit under any conditions and for any terms it may specify, to the owner of a building or structure that encroaches on a road, street, lane or other public place permitting the building or structure to remain thereon.

Closing of streets, etc.

180. (1) A council of a city may pass by-laws for the purpose of closing the whole or any portion of any street, road, lane or public highway, and the council of any other municipality may do so with the approval of the Minister of Transportation and Utilities.

Lease of air space

181. (1) A council of a city may

(a) lease air space over the whole or any portion of a public highway, road, street, lane or alley within the city;

(b) with the consent of the Minister of Transportation and Utilities, grant to the person to whom it has leased air space, a lease of the portion of a public highway, road, street, lane or alley required for supporting columns for a building or other structure which may be erected or located in that air space together with an easement with respect to the public highway, road, street, lane or alley as may be necessary to excavate for, erect, maintain and repair the supporting columns.

(2) On application by a city and on payment of the proper fees, the Registrar of a land titles office shall issue to the city a certificate of title to that portion of the public highway, road, street, lane or alley required for supporting columns of a building or other structure to be located over any portion of a public highway, road, street, lane or alley.

Lease or sale of closed road

183. (1) A city may lease or sell the whole or a portion of any street, road, lane or public highway that has been closed.

PART 6

PUBLIC UTILITIES

Expropriation of land for public utility

295. (1) A municipality, its engineers, servants and workmen, from time to time and at the times the council considers fit, may enter into and on, take or use by expropriation under the *Expropriation Act*, any land located inside or outside of the municipality, and may survey, set out and ascertain those parts of the land that are required for the purposes of any public utility that the municipality is empowered to construct or operate, and may contract with the owners or occupants of the land and any person having a right or interest in it for the purchase or renting of it, or of any part of it, or of any privilege that may be required for the purpose of the public utility, at the option of the municipality.

PART 8

LEGAL PROCEEDINGS

Adverse possession of land

437. No person shall, by reason of the adverse or unauthorized possession, occupation, enjoyment or use of any land owned by the municipality or of any highway within the municipality and shown on any plan of subdivision or dedicated for use as a highway, whether adopted by the municipality as a highway or not, obtain any estate or interest therein or in any such land by reason of the adverse possession, occupation, enjoyment or use thereof, and it shall be deemed that no such right has heretofore been so acquired.

SCHEDULE II

Planning Act

Excerpts from
Chapter P-9, R.S.A. 1980
Consolidated to 01.01.89.

Definitions

1. In this Act,

(a) "area redevelopment plan" means a plan adopted by a council as an area redevelopment plan pursuant to this Act;

(a.1) "Board" means the Alberta Planning Board established pursuant to this Act;

(b) "building" includes any thing constructed or placed on, in, over or under land but does not include a highway or public roadway or a bridge forming part of a highway or public roadway;

(b.1) "council" means

- (i) the council of a municipality, or
- (ii) the board of administrators of a new town;

(c) "development" means

- (i) an excavation or stockpile and the creation of either of them,
- (ii) a building or an addition to or replacement or repair of a building and the construction or placing in, on over or under land of any of them,
- (iii) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building, or
- (iv) a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building;

(c.1) "development appeal board" means a development appeal board appointed pursuant to section 33 or a council if it is the development appeal board by virtue of section 33(2);

(d) "development officer" means

- (i) a person appointed as a development officer pursuant to a land use by-law or the land use regulations,
- (ii) if a municipal planning commission or a joint municipal planning commission is

authorized to act as a development officer, the municipal planning commission or the joint municipal planning commission, as the case may be, or

(iii) if a municipal planning commission or joint municipal planning commission is authorized to act as a development officer in addition to a person appointed as a development officer, either or both of them;

(d.1) "development permit" means a document authorizing a development issued pursuant to a land use by-law or the land use regulations;

(e) "environmental reserve" means the land specified to be environmental reserve by a subdivision approving authority pursuant to section 98 or by the Board pursuant to section 110.1;

(f) "general municipal plan" means a plan adopted by a council as a general municipal plan pursuant to this Act;

(f.1) "highway" means

- (i) a highway or proposed highway that is designated as a primary highway, or
- (ii) a road, street or highway designated as a secondary road and numbered between 900 and 999,

pursuant to the *Public Highways Development Act*;

(g) "instrument" means a plan of subdivision and every other thing defined as an instrument under the *Land Titles Act*;

(h) "land use by-law" means a by-law of a council passed as a land use by-law in accordance with this Act and includes a by-law under section 23 of the *Historical Resources Act*;

(h.1) "land use regulations" means regulations made by the Lieutenant Governor in Council pursuant to section 144;

(k) "municipal corporation" means

- (i) the corporation of a city, town, new town, village, summer village, municipal district or county, or
- (ii) in the case of an improvement district or special area, the Minister;

- (k.1) "municipal planning commission" means a municipal planning commission established by a council pursuant to this Act;
- (l) "municipal reserve" means the land specified to be municipal reserve by a subdivision approving authority pursuant to section 99 or 101 or by the Board pursuant to section 110.1;
- (l.1) "municipal and school reserve" means the land specified to be municipal and school reserve by a subdivision approving authority pursuant to section 99 or 101 or by the Board pursuant to section 110.1;
- (m) "municipality" means the area of a city, town, new town, village, summer village, county, municipal district, improvement district or special area;
- (m.1) "non-conforming building" means a building
- (i) that is lawfully constructed or lawfully under construction at the date a land use by-law or any amendment thereof affecting the building or land on which the building is situated becomes effective, and
 - (ii) that on the date the land use by-law or any amendment thereof becomes effective does not, or when constructed will not, comply with the land use by-law;
- (n) "non-conforming use" means a lawful specific use
- (i) being made of land or a building or intended to be made of a building lawfully under construction, at the date a land use by-law or any amendment thereof affecting the land or building becomes effective, and
 - (ii) that on the date the land use by-law or any amendment thereof becomes effective does not, or in the case of a building under construction will not, comply with the land use by-law;
- (n.1) "owner" means the person shown as the owner of land on the assessment roll of a council prepared under the *Municipal Taxation Act*;
- (p) "plan of subdivision" means a plan of survey prepared in accordance with the *Land Titles Act* for the purpose of effecting a subdivision;
- (p.1) "public roadway" means
- (i) in a city, town, new town, village or summer village, the right of way of all or any of the following:
 - (A) a local road,
 - (B) a service road,
 - (C) a street,
 - (D) an avenue, or
 - (E) a lane,
 that is publicly used or intended for public use, and includes a public right of way on which no motor vehicle, as defined in the *Motor Vehicle Administration Act*, is permitted to operate;
 - (q.1) "redevelopment area" means an area of land that is the subject of an area redevelopment plan;
 - (s) "registered owner" means
 - (i) in the case of land owned by the Crown in right of Alberta or the Crown in right of Canada, the Minister of the Crown having the administration of the land, or
 - (ii) in the case of any other land,
 - (A) the purchaser of the fee simple estate in the land under an agreement for sale that is the subject of a caveat registered against the certificate of title in the land and any assignee of the purchaser's interest that is the subject of a caveat registered against the certificate of title, or
 - (B) in the absence of a person described in paragraph (A), the person registered under the *Land Titles Act* as the owner of the fee simple estate in the land;
 - (s.1) "Registrar" has the same meaning as it has in the *Land Titles Act*;
 - (t) "reserve land" means environmental reserve, municipal reserve or school reserve or municipal and school reserve;
 - (u) "school reserve" means the land specified to be school reserve by a subdivision approving authority pursuant to section 99 or 101 or by the Board pursuant to section 110.1;
 - (u.1) "statutory plan" means a general municipal plan, an area structure plan referred to in section 64 and an area redevelopment plan or any one or more of them;
 - (w) "subdivision approval" means the approval of a subdivision by a subdivision approving authority;
 - (y) "subdivision regulations" means regulations made by the Lieutenant Governor in Council pursuant to section 145;
 - (z) "utilities" means any one or more of the following:
 - (i) systems for the distribution of gas, whether artificial or natural;
 - (i.1) systems for the distribution of electrical power;

- (ii) facilities for the storage, transmission, treatment, distribution or supply of water;
 - (iii) facilities for the collection, treatment, movement or disposal of sanitary sewage;
 - (iv) storm sewer drainage facilities;
 - (v) any other things prescribed by the Lieutenant Governor in Council by regulation,
- but does not include those systems or facilities referred to in subclauses (i) to (iv) that are exempted by the Lieutenant Governor in Council by regulation.

PART 2

ESTABLISHMENT AND FUNCTIONS OF PROVINCIAL, REGIONAL AND MUNICIPAL PLANNING AUTHORITIES

DIVISION 3

MUNICIPAL PLANNING COMMISSIONS

Municipal planning commissions

28. (1) A council may by by-law establish a municipal planning commission.

DIVISION 4

DEVELOPMENT APPEAL BOARDS

Development appeal boards

33. (1) A council of a municipality having a population of 1000 or more shall by by-law establish a development appeal board.

PART 3

REGIONAL PLANS AND STATUTORY PLANS

Contents of plans

45. Any plan referred to in this Part may include

- (a) maps, diagrams and other graphic aids, and
- (b) any written statements, policies, proposals and forecasts that are considered necessary and appropriate for the plan in which they appear.

DIVISION 2

STATUTORY PLANS

General Municipal Plans

Preparation of general municipal plans

61. (1) Subject to subsection (3), a council of

(a) a city, town, new town, village or summer village having a population of 1000 or more, and

shall, by by-law passed in accordance with Part 6, adopt a plan for the municipality to be known as the "(name of municipality) General Municipal Plan".

(2) A council to which subsection (1) does not apply may, by by-law passed in accordance with Part 6, adopt a plan for the municipality to be known as the "(name of municipality) General Municipal Plan".

(3) The councils of 2 or more municipalities may, by each passing a by-law in accordance with Part 6, adopt a joint general municipal plan to include those areas of land lying within the boundaries of the municipalities that the councils consider necessary and on its adoption the joint general municipal plan shall be considered to be a general municipal plan for all purposes.

Contents of general municipal plan

63. A general municipal plan shall

- (a) describe
 - (i) the land uses proposed for the municipality, and
 - (ii) the manner of and the proposals for future development in the municipality;
- (b) designate or describe the areas of the municipality that would, in the opinion of the council, be suitable for an area structure plan or an area redevelopment plan or both;
- (c) contain any other matters that the council considers necessary.

Area Structure Plans

Area structure plans

64. (1) For the purpose of providing a framework for subsequent subdivision and development of an area of land in a municipality, a council may, by by-law passed in accordance with Part 6, adopt a plan to be known as the "(name) Area Structure Plan".

(2) An area structure plan shall

- (a) conform to any general municipal plan in existence and affecting the area that is the subject of the area structure plan;
- (b) describe
 - (i) the sequence of development proposed for the area,

- (ii) the land uses proposed for the area, either generally or with respect to specific parts of the area,
- (iii) the density of population proposed for the area either generally or with respect to specific parts of the area, and
- (iv) the general location of major transportation routes and public utilities;
- (c) contain any other matters the council considers necessary.

Area Redevelopment Plans

Area redevelopment plans

65. A council may, by by-law passed in accordance with Part 6,

(a) designate an area of the municipality as a redevelopment area for the purpose of all or any of the following:

- (i) preserving or improving land and buildings in the area;
- (ii) rehabilitating buildings in the area;
- (iii) removing buildings from the area;
- (iv) constructing or replacing buildings in the area;
- (v) establishing, improving or relocating public roadways, public utilities or other services in the area;
- (vi) any other development in the area,

and

- (b) adopt a plan for that area to be known as the "(name) Area Redevelopment Plan".

Contents of area redevelopment plan

67. An area redevelopment plan shall

- (a) conform with any land use by-law and any other statutory plan affecting the area that is the subject of the plan;
- (b) describe
 - (i) the objectives of the plan and how they are proposed to be achieved,
 - (ii) the proposed land uses for the redevelopment area,
 - (iii) the proposed public roadways, public utilities and other services,
 - (iv) the location of reserve land, and
 - (v) the recreational and school facilities likely to be required;
- (c) if a redevelopment levy is to be imposed

(i) state the one or more purposes for which it is imposed, and

(ii) specify the proportion of the levy collected that will be paid to a school authority, if any;

(d) describe proposals for the acquisition of land for any public municipal use, school facilities, parks and recreation facilities or any other purposes the council considers necessary;

(e) contain any other proposals the council considers necessary.

PART 4

IMPLEMENTATION OF PLANS

DIVISION 1

LAND USE BY-LAW

Mandatory land use by-law

68. (1) A council of a municipality with a population of 1000 or more shall pass a by-law in accordance with Part 6, to be known as the "(name of municipality) Land Use By-law".

Land use by-law

69. (1) A land use by-law may prohibit or regulate and control the use and development of land and buildings within a municipality.

(2) A land use by-law shall

- (a) divide the municipality into districts of the number and area the council considers appropriate;
- (b) unless the district is designated as a direct control district pursuant to section 70, prescribe with respect to each district, in accordance with section 71 and with or without conditions,

- (i) the permitted uses of land or buildings, or
 - (ii) the discretionary uses of land or buildings,
- or both;

(3) Without restricting the generality of subsection (1), a land use by-law may provide for any or all of the following matters, either generally or with respect to any district or part of a district established pursuant to subsection (2)(a):

- (a) subject to the subdivision regulations, the minimum and maximum area of lots;
- (b) the ground area, floor area, height, size and location of buildings;
- (c) the amount of land to be provided around or between buildings;

- (e) the location, height and maintenance of fences and walls;
- (h) the location and amount of access to lots from public roadways and ensuring that there is at least one means of access from each lot to a public roadway;
- (q) the establishment of any agreements, forms, fees and procedural matters the council considers necessary;
- (r) the issue of orders requiring an application for subdivision approval pursuant to section 79;
- (s) the issue of orders pursuant to section 81.

(4) A land use by-law may provide that when an application for a development permit is refused another application for a permit for a development

- (a) on the same lot, and
- (b) for the same or a similar use,

may not be made by the same or any other applicant until the time stated in the land use by-law has expired.

(5) A land use by-law may authorize a development officer to decide on an application for a development permit notwithstanding that the proposed development does not comply with the land use by-law if, in the opinion of the development officer,

- (a) the proposed development would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring properties,

and

- (b) the proposed development conforms with the use prescribed for that land or building in the land use by-law.

Non-Conforming Uses and Non-Conforming Buildings

Non-conforming use and non-conforming buildings

74. (1) When

- (a) on or before the day on which a land use by-law or any by-law for the amendment of it comes into force in a municipality, a development permit has been issued, and
- (b) the enactment of the by-law would render the development in respect of which the permit was issued a non-conforming use or non-conforming building,

the development permit continues in effect notwithstanding the enactment of the by-law referred to in clause (b).

(2) A non-conforming use of land or a non-conforming use of a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building shall conform with the provisions of the land use by-law then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, shall not be enlarged or added to and no structural alterations shall be made to it or in it.

(4) A non-conforming use of part of a lot shall not be extended or transferred in whole or in part to any other part of the lot and no additional buildings shall be erected on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building shall not be enlarged, added to, rebuilt or structurally altered except

- (a) as may be necessary to make it a conforming building, or
- (b) as the development officer considers necessary for the routine maintenance of the building.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building shall not be repaired or rebuilt except in accordance with the land use by-law.

(7) The use of land or the use of a building is not affected by reason only of a change of ownership, tenancy or occupancy of the land or building.

DIVISION 2

REDEVELOPMENT AND OFF-SITE LEVIES AND DEVELOPMENT CONDITIONS

Redevelopment levies

75. (1) If a person applies for a development permit in respect of development in a redevelopment area and the area redevelopment plan contains proposals for residential, commercial or industrial development, a redevelopment levy may be imposed on the applicant in accordance with the by-law adopting the area redevelopment plan.

(2) A redevelopment levy imposed and collected shall be used to provide, in respect of the redevelopment area,

(a) land for a park or land for school buildings designed for the instruction or accommodation of students, or

(b) land for new or expanded recreation facilities, or both.

Off-site levy

76. (1) For the one or more purposes referred to in subsection (2), a council may by by-law

(a) provide for the imposition and payment of a levy to be known as an off-site levy, in respect of land that

(i) is to be developed or subdivided, and

(b) authorize an agreement to be entered into in respect of the payment of the levy.

(2) An off-site levy may be used only to pay for all or part of the capital cost of all or any of the following:

(a) new or expanded facilities for the storage, transmission, treatment or supplying of water;

(b) new or expanded facilities for the treatment, movement or disposal of sanitary sewage;

(c) new or expanded storm sewer drainage facilities;

(d) land required for or in connection with any facilities described in clauses (a) to (c).

Condition of issuing development permit

77. (1) A council may require with respect to a development that, as a condition of issuing a development permit, the applicant enter into an agreement to do all or any of the following:

(a) to construct or pay for the construction of a public roadway required to give access to the development;

(b) to construct or pay for the construction of

- (i) a pedestrian walkway system to serve the development, or
- (ii) pedestrian walkways that will connect the pedestrian walkway system serving the development with a pedestrian walkway system that serves or is proposed to serve an adjacent development,

or both;

(c) to install or pay for the installation of utilities that are necessary to serve the development;

(d) to construct or pay for the construction of

- (i) off-street or other parking facilities, and
- (ii) loading and unloading facilities;

(e) to pay an off-site levy or redevelopment levy imposed by by-law.

DIVISION 3 DEVELOPMENT CONTROL

Dwelling Units on a Lot

Number of swelling units on a lot

78. (1) Subject to subsections (2), (3) and (6), no person shall construct or locate or cause to be constructed or located more than one dwelling unit on a parcel.

(2) A development officer may issue a development permit to a person that would permit the construction or location of more than one dwelling unit on a parcel if the 2nd or additional dwelling unit

(a) is to be occupied by a person who is engaged on a full-time basis for at least 6 months each year in an agricultural pursuit,

(b) is contained in a building that, or in buildings each of which, is designed for or divided into 2 or more dwelling units,

(c) is a mobile unit as defined in the *Municipal Government Act* forming part of a park for mobile units, or

(d) is a building, as defined in the *Condominium Property Act*, that is the subject of a condominium plan to be registered in a land titles office under that Act.

Orders of Compliance

Notice requiring application for subdivision approval

79. (1) Except as permitted under section 78, when a single lot contains 2 or more dwelling units, the council of the municipality in which the dwelling units are situated may cause to be served on the registered owner of the lot a notice in writing requiring him to apply for subdivision approval within the period of time specified in the notice.

Compulsory subdivision

80. (1) If, on the expiry of the period of time specified in a notice issued pursuant to section 79, the registered owner of the lot described in the notice has failed to apply for subdivision approval, the council with or without his consent may apply for subdivision approval.

(2) A subdivision approval granted pursuant to this section need not be confined to those portions of the lot that are occupied or unoccupied as separate buildings intended for use as a residence at the time the survey of the lot is made but, if the council so requires, the proposed subdivision may include the whole of the lot or such portion or portions of it as may suitably be subdivided for future separate occupancy.

(3) The application fee and costs of applying for subdivision approval, making the survey and registering the plan of subdivision or other instrument and any other costs incurred by the council under this section may, at the direction of the council, be placed on the tax roll as an additional tax against the property concerned and that amount shall be collected in the same manner as taxes on land.

PART 5 SUBDIVISION OF LAND

DIVISION 1 CONTROL OVER SUBDIVISIONS

Control over subdivisions

86. (1) Except as provided in subsection (2), a Registrar shall not accept for registration an instrument that has the effect or that may have the effect of subdividing a parcel unless the subdivision has been approved by the subdivision approving authority.

(4) A Registrar shall not accept a caveat for registration in a land titles office that relates to an instrument that has or may have the effect of subdividing a parcel unless

- (a) no subdivision approval is required in respect of that subdivision pursuant to subsection (2), or
- (b) subdivision approval has been granted in respect of that subdivision.

DIVISION 2 APPLICATION FOR SUBDIVISION APPROVAL

Hearing unnecessary

90. A subdivision approving authority is not required to hear any representations with respect to an application for subdivision approval.

Approval application

91. (1) A subdivision approving authority shall not approve an application for subdivision approval unless

(a) the land that is proposed to be subdivided is, in the opinion of the subdivision approving authority, suitable for the purpose for which the subdivision is intended;

(b) the proposed subdivision conforms to the provisions of any regional plan, ministerial regional plan, statutory plan and, subject to subsection (1.1), any land use by-law or land use regulation that affects the land proposed to be subdivided;

(c) the proposed subdivision complies with this Act and the regulations;

(d) all outstanding property taxes on the land proposed to be subdivided have been paid to the council of the municipality in which the land is situated or arrangements satisfactory to the council have been made for the payment thereof.

(2) A subdivision approving authority may approve or refuse an application for subdivision approval.

Conditions of subdivision approval

92. (1) A subdivision approving authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision regulations on a subdivision approval issued by it:

(a) any conditions that may be necessary to ensure that this Act and the regulations and any regional plan, ministerial regional plan, statutory plan and land use by-law or land use regulations affecting the land proposed to be subdivided are complied with;

(b) at the request of a council, a condition that the applicant enter into an agreement with the council respecting all or any of the following:

(i) to construct or pay for the construction of a public roadway required to give access to the subdivision;

(ii) to construct or pay for the construction of
(A) a pedestrian walkway system to serve the subdivision, or

(B) pedestrian walkways that will connect the pedestrian walkway system serving the subdivision with a pedestrian walkway system that serves or is proposed to serve an adjacent subdivision,

or both;

(iii) to install or pay for the installation of utilities that are necessary to serve the subdivision;

(iv) to construct or pay for the construction of

- (A) off-street or other parking facilities, and
- (B) loading and unloading facilities;
- (v) to pay an off-site levy or redevelopment levy imposed by by-law.

Notice of decision

93. (1) A decision of a subdivision approving authority shall be given in writing.

(2) When a subdivision approving authority refuses an application for subdivision approval, the decision shall contain reasons for the refusal.

(3) Copies of the decision shall be sent to

- (a) the applicant,
- (b) the council of the municipality in which the land proposed to be subdivided is situated, except when a municipal planning commission is the subdivision approving authority for that municipality,

(4) If the subdivision approving authority approves an application for subdivision approval, it shall, within 14 days after making its decision, publish a notice of the decision at least once in a newspaper having general circulation in the municipality in which the proposed subdivision is located.

(5) The notice referred to in subsection (4) shall contain the legal description of the land to be subdivided and any other information that the notice is required to contain under the subdivision regulations.

Refusal of application

94. If an application for subdivision approval is refused, the subdivision approving authority may refuse to accept for consideration, with respect to the same land or part of the same land, a further application for subdivision approval submitted to it within the 6-month period after the date of the subdivision approving authority's decision to refuse the application.

DIVISION 3

**LAND PROVIDED TO THE CROWN,
MUNICIPAL CORPORATIONS AND SCHOOL
AUTHORITIES AND MONEY IN PLACE OF CERTAIN
RESERVE LAND**

Land for walkways, roadways, etc.

95. The registered owner of land that is the subject of a proposed subdivision shall provide, without compensation,

- (a) to the Crown in right of Alberta or a municipal corporation, as the case may be, land for public roadways and public utilities,
- (b) to the Crown in right of Alberta or a municipal corporation, as the case may be, land for environmental reserve,
- (c) to the Crown in right of Alberta, a municipal corporation or one or more school authorities or a municipal corporation and one or more school authorities, as the case may be, except for the exemptions referred to in section 97,
 - (i) land for municipal reserve, school reserve or municipal and school reserve,
 - (ii) money in place of all or any of the land referred to in subclause (i), or
 - (iii) a combination of land and money,

as may be required by a subdivision approving authority in accordance with this Division.

Public roadways, walkways, etc.

96. (1) A subdivision approving authority may require the registered owner of a parcel that is the subject of a proposed subdivision to provide part of that parcel for the purpose of public roadways or public utilities or both.

(2) The land to be provided under subsection (1) shall not exceed 30% of the area of the parcel less the land taken as environmental reserve.

(3) If

- (a) the registered owner has provided sufficient land for the purposes referred to in subsection (1), but
- (b) the area of land so provided is less than the maximum amount authorized by subsection (2),

the subdivision approving authority shall not require the owner to provide any more land for those purposes.

*Reserve Land**Environmental reserve*

98. Subject to section 97, a subdivision approving authority may require the registered owner of a parcel that is the subject of a proposed subdivision to provide part of that parcel as environmental reserve if it consists of

- (a) a swamp, gully, ravine, coulee or natural drainage course,
- (b) land that is subject to flooding or is, in the opinion of the subdivision approving authority, unstable, or
- (d) a strip of land, not less than 6 metres in width, abutting the bed and shore of any lake, river, stream or other body of water for the purpose of
 - (i) preventing pollution, or
 - (ii) providing public access to and beside the bed and shore.

Municipal and school reserve

99. (1) Subject to section 97, a subdivision approving authority may require the registered owner of a parcel that is the subject of a proposed subdivision

- (a) to provide part of that parcel as municipal reserve and part as school reserve or as municipal and school reserve,
- (b) to provide money in place of municipal reserve and school reserve or municipal and school reserve or any of them, or
- (c) to provide any combination of land or money referred to in clauses (a) and (b).

(2) The aggregate amount of land that may be required to be provided under subsection (1) shall not exceed 10% of the area of the parcel less the land required to be provided as environmental reserve.

(3) The total amount of money that may be required to be provided under subsection (1) shall not exceed 10% of the appraised market value determined in accordance with section 100, of the area of the parcel less the land required to be provided as environmental reserve.

(4) When a combination of land and money is required to be provided, the total of

- (a) the percentage of land required under subsection (2), and

- (b) the percentage of the appraised market value of the land required under subsection (3)

shall not exceed 10%.

Deferment of municipal and school reserve

102. (1) Instead of requiring municipal reserve or school reserve or municipal and school reserve or money in place of any of them to be provided, a subdivision approving authority may direct that the requirement to provide all or part of the municipal reserve, school reserve or municipal and school reserve be deferred.

Allocation of municipal and school reserve

104. (1) When reserve land is required to be provided, the subdivision approving authority shall

- (a) specify the amount, type and location of reserve land that is to be provided, and

(3) When a combination of land and money is required to be provided, the subdivision approving authority shall

- (a) specify the amount, type and location of reserve land that is to be provided, and

DIVISION 4

REGISTRATION OF SUBDIVISION INSTRUMENTS

Registration of subdivision instruments

105. (1) The applicant for subdivision approval shall submit to the subdivision approving authority the plan of subdivision or other instrument that effects or will effect the subdivision within one year after the latest of the following dates:

- (a) the date on which the subdivision approval is given to the application;
- (b) if there is an appeal to the Board in respect of the application, the date of the Board's decision unless the appeal is sooner discontinued;
- (c) if there is an appeal to the Court of Appeal under section 152, the date on which the judgment of the Court is entered or the date on which the appeal was discontinued.

(3) On being satisfied that a plan of subdivision or other instrument complies with a subdivision approval and that any conditions imposed have been met, the subdivision approving authority or a person designated in writing by the subdivision approving authority, shall endorse the plan or other instrument in accordance with the regulations.

(4) On being satisfied that a plan of subdivision or other instrument complies with a subdivision approval but conditions to which the approval is subject have not been met, the subdivision approving authority or a person designated in writing by the subdivision approving authority may endorse the plan or other instrument in accordance with the regulations if it or he is satisfied that the conditions will be met.

(5) If the plan of subdivision or other instrument is not submitted to the subdivision approving authority within the time prescribed by subsection (1) or any longer period authorized by the Board, the subdivision approval is void.

DIVISION 7 REPLOTTING SCHEMES

Preparation of replotting scheme

123. In this Division,

(a) "cost of preparing the replotting scheme" means the following costs payable with respect to a replotting scheme:

- (i) appraisal costs,
- (ii) survey costs,
- (iii) costs paid to prepare a plan of subdivision,
- (iv) subdivision approving authority costs, and
- (v) land titles costs;

(b) "land replot" means a replotting scheme based on a proportional redistribution of the land in the replotting scheme;

(c) "replot compensation" means the compensation that may be awarded by the Land Compensation Board pursuant to section 137;

(d) "valuation replot" means a replotting scheme based on the valuation of land to determine the redistribution of ownership of land within the replotting scheme.

Notice of preparation of replotting scheme

124. (1) If a council proposes to consider a resolution authorizing the preparation of a replotting scheme, it shall cause notice of its intention to be served on the registered owners of land within the boundaries of the proposed replotting scheme stating

- (a) the land proposed to be included in the replotting scheme,
- (b) the nature of the proposed alteration in the boundaries of the lots in the scheme,

(c) the location and relocation of any easements or rights of way in the scheme, and

(d) the time and place at which the council intends to hold a hearing on the matter.

(3) For the purpose of redistributing the ownership of land within a replotting scheme and after the hearing referred to in subsection (1), a council may pass a resolution authorizing the preparation of a replotting scheme and describing the land to be included within the scheme.

Contents of replotting scheme

128. A replotting scheme shall consist of

(a) a plan showing the original lots within the scheme, the dimensions and area of each lot, the total area of all the lots and all easements and rights of way registered against the land in the replotting scheme,

(c) a schedule of the names of the registered owners of the original lots,

(e) if a land replot is proposed,

(i) a schedule showing the area of each original lot, and

(ii) a schedule showing the area of each proposed new lot,

(f) a schedule showing the proposed allotment of each new lot to be created by the scheme and the proposed registered owner of it,

(h) a proposed plan of subdivision relating to the land in the replotting scheme showing in addition to those things provided for in this Act and the regulations, the location of easements and rights of way over the land included in the replotting scheme.

Entitlement of registered owners

129. (1) If a replotting scheme that is a valuation replot is consented to under section 131(2)(a), each registered owner of land included in the replotting scheme is entitled to be allotted one or more new lots in the replotting scheme having an appraised market value bearing the same proportion to the aggregate appraised value of all the proposed new lots in the replotting scheme as the appraised market value of his original one or more lots bears to the aggregate appraised market value of all the original lots in the scheme.

(2) If a replotting scheme that is a land replot has been consented to under section 131(2)(b), each registered owner is entitled to be allotted one or more

new lots in the replotting scheme having an area bearing the same proportion to the aggregate area of all the proposed new lots in the replotting scheme as the area of his original one or more lots bears to the aggregate area of all the original lots in the replotting scheme.

Notice of replotting scheme

130. (1) On completion of the preparation of a replotting scheme, the council shall cause notice of it to be served on each registered owner of land in the replotting scheme.

(2) The notice referred to in subsection (1) shall

- (a) outline the contents of the replotting scheme and explain the consequences of it, if adopted, and
 - (b) state the date, time and place at which a public hearing will be held by council to hear representations with respect to the scheme.
-

Adoption of replotting scheme

131. (1) As soon as practicable after serving notices under section 130, the council shall hold a hearing on the scheme in accordance with the notice and at the hearing shall hear any registered owner who wishes to be heard.

(2) After holding the hearing and on being satisfied that consent to the replotting scheme has been given in writing by

- (a) 90% or more of the registered owners of the original lots in the replotting scheme having 90% or more of the market value of all the lots appraised under section 127(1)(a), or
- (b) 90% or more of the registered owners of the original lots in the replotting scheme,

the council may, by resolution, adopt the scheme.

(3) If the council fails to obtain the consents required under this section, it shall by resolution discontinue the scheme and file a certified copy of the resolution in the appropriate land titles office, whereupon the Registrar shall cancel each memorandum endorsed pursuant to section 125 that relates to the scheme.

(4) Notwithstanding anything in this section, when in the case of a municipality other than a city, land forming any part of a public roadway is affected by a replotting scheme, the scheme shall not be adopted by the council without the prior approval of the Minister of Transportation and Utilities.

Registration of replotting scheme

133. (1) On the adoption of a replotting scheme, the council shall

- (a) apply for subdivision approval of the land included in the replotting scheme, and
 - (b) file at the land titles office
 - (i) a certified copy of the resolution adopting the scheme,
 - (ii) a certified copy of the scheme, and
 - (iii) the plan of subdivision endorsed by the subdivision approving authority made in accordance with the scheme as adopted, sealed with the seal of the municipal corporation together with a statutory declaration signed by the municipal secretary in a form prescribed by the subdivision regulations.
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